

**IN THE SUPREME COURT OF THE  
STATE OF NEVADA**

CLARK NMSD, LLC,  
Appellant,

vs

JENNIFER GOLDSTEIN,  
Respondent.

Electronically Filed  
Dec 05 2022 05:55 PM  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No. 84623

District Court Case No. A-15-728510-B

Volume III

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**APPENDIX OF EXHIBITS IN SUPPORT OF APPELLANT'S  
EMERGENCY MOTION FOR STAY OR INJUNCTION**

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EXHIBIT 8 CONTINUED

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8  
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 NUVEDA, LLC, a Nevada Limited Liability  
Company; and CWNEVADA LLC, a Nevada  
12 Limited Liability Company,

Case No.: A-17-755479-B  
13 Dept. No.: 11

14 Plaintiffs,

15 v.

16 4FRONT ADVISORS LLC, foreign limited  
liability company, DOES I through X and ROF  
ENTITIES, II through XX, inclusive,

17 Defendants.

18 **PROOF OF CLAIM**

19 Jennifer Goldstein, a creditor of CWNevada, LLC,  
20 hereby submits the following claim as an [ x ] unsecured claim or [ ] secured claim [check a box]  
and provides the basis for the claim as follows:

21 Creditor is listed as the number six unsecured creditor on CWNevada, LLC's Official Form List of Creditors filed in support  
22 of its 2019 voluntary petition for Chapter 11 reorganization ("Petition"). Creditor was a founding member of NuVeda, LLC  
23 and the owner of seven percent (7%) of the licenses subject to the Membership Interest Purchase Agreement between  
24 CWNevada, a to-be-formed entity ("CWNV"), NuVeda, and its subsidiaries, effective date of December 6, 2015 (the  
25 "MIPA"). Pursuant to the MIPA, NuVeda agreed to transfer two (2) dispensary licenses, one (1) production license, and  
26 one (1) cultivation license to CWNV, in exchange for NuVeda owning 35% of CWNV. CWNevada was to own the  
27 remaining 65% interest in CWNV. The valuations and apportionment as determined by the Arbitrator are as set forth  
28 in the attached Interim Award, which was confirmed by the Arbitrator's Final Award in March 19, 2019 and by the District  
Court on September 6, 2019. The Arbitrator held that NuVeda's interest in CWNV at \$41,461,538.30 as of August 8,  
2017; the Arbitrator then calculated Creditor's 7% interest at \$2,902,307.68. Judicial interest on the amount to date is  
\$520,010.04 for a total claim of \$3422317.72.

HOLLEY DRIGGS  
WALCH FINE PUZEY STEIN THOMPSON

1 The total claim amount as of March 4, 2020, is \$ 3,422,317.72, with interest  
2 continuing to accrue at the rate of \$ 632.90 per day, plus legal fees and costs in the amount  
3 of \$ reserved.

4 State of Nevada

5 County of Clark

6 Jennifer Goldstein, an individual, [name], being duly sworn states: that

7 he/she is the duly authorized agent of self who has  
8 submitted the foregoing claim against CWNevada, LLC; that the amount of the claim is justly due  
9 or is a just demand and will become due on the date set forth above; that all payments have been  
10 credited; that there are no offsets known to affiant which have not been credited; and (complete if  
11 applicable) affiant rather than the creditor has submitted this claim for the following reason:

12 n/a; affiant is creditor

13 Creditor: Jennifer Goldstein  
14 By: \_\_\_\_\_  
15 Address: 8913 Briar Bay Drive  
Las Vegas, NV 89131  
16 Phone - 4155176464  
17 Fax - n/a

18 Signed and sworn (or affirmed) to before me this 6<sup>th</sup> day of March, 2020 by  
19 Jennifer Mulligan Goldstein (name of person making statement).

20 [Signature]  
21 NOTARY PUBLIC



## **Exhibits to Jennifer Goldstein's Proof of Claim**

- A. Arbitrator Baker's Interim Award
- B. Arbitrator Baker's Final Award
- C. Judge Gonzales' Findings of Fact, Conclusions of Law and Order
- D. Judge Gonzales' Order and Judgment
- E. NuVeda Operating Agreement
- F. CWNV Membership Interest Purchase Agreement
- G. CW Nevada's Official Form 204
- H. CW Nevada's List of Creditors

# **Exhibit A**

**Arbitrator's Interim Award**



American Arbitration Association  
*Dispute Resolution Services Worldwide*

**AMERICAN ARBITRATION ASSOCIATION**  
**COMMERCIAL ARBITRATION TRIBUNAL**

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In the Matter of the Arbitration between:

Jennifer M. Goldstein, hereinafter referred to as "Ms. Goldstein"

-and-

NuVeda, LLC, hereinafter referred to as "NuVeda"

AAA Case #: 01-15-005-8574

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**INTERIM AWARD OF ARBITRATOR REGARDING VALUE**

On January 15, 2019, beginning at 10:00 a.m., and ending on January 17, 2019, at 11:40 a.m., the Final Hearing was held in the above-captioned matter ("this Arbitration"). David Feuerstein, Esq., and Nancy Baynard, Esq., appeared on behalf of Ms. Goldstein. Ms. Goldstein was also present. Matthew T. Dushoff, Esq. and Jason M. Wiley, Esq., appeared on behalf of Respondent. Dr. Mohajer, Dr. Bady, and Joseph Kennedy were also present.

I, NIKKI L. BAKER, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the parties, having been duly sworn, having duly heard and reviewed the proofs and allegations of the parties during the Final Hearing, and in the parties' pre-hearing briefs, FIND as follows:

**I. SUMMARY OF RELEVANT FACTS**

**A. NuVeda and Its Subsidiaries Are Formed.**

On or about July 9, 2014, various individuals executed an Operating Agreement for NuVeda (the "Operating Agreement"). (See JE8.) The purpose of NuVeda was and is to engage in all lawful activities, including, but not limited to, the "research, design, creation, management, licensing, advertising and consulting regarding the legal medical marijuana industry, as such matters shall be lawfully allowed under applicable state laws." (See Operating Agreement at Section 1.6.)

Contemporaneous with the formation of NuVeda, the members of NuVeda caused the formation of subsidiary companies Clark NMSD LLC ("Clark"), Clark Natural Medicinal Solutions LLC ("Clark Medicinal"), and Nye Natural Medicinal Solutions LLC ("Nye") (collectively, the "Subsidiaries"). For purposes of this Arbitration, the parties stipulated that I

was to assume, without deciding, that the Subsidiaries were at all times relevant hereto wholly-owned by NuVeda.

Through the Subsidiaries, NuVeda applied for and received six (6) valuable and privileged licenses to legally cultivate, process and dispense marijuana (collectively, the "Licenses"). More specifically, Clark obtained two (2) dispensary licenses to operate dispensaries on 3<sup>rd</sup> Street and on N. Las Vegas Blvd. Clark Medicinal obtained one (1) cultivation license and one (1) processing license. Nye also obtained one (1) cultivation license and one (1) processing license. For purposes of this Arbitration, the parties stipulated that I was to assume, without deciding, that the fair market value of NuVeda includes the fair market value of the Licenses.

**B. Disputes Arise Between the Members of NuVeda, Resulting in the Commencement of an Action in District Court and This Arbitration.**

Pursuant to the Operating Agreement, Ms. Goldstein was allocated a 7% nondilutable interest in NuVeda. (See JE8.) She was also named NuVeda's in-house counsel, tasked with advising the other members of NuVeda on legal matters applicable to and affecting NuVeda, and the primary author of the Operating Agreement.

Subsequently, various disagreements amongst the members resulted in initiation of this Arbitration<sup>1</sup> and the filing of the action styled *NuVeda, LLC et al. v. Pejman Bady, et al.*, Case No. A-15-728510-B (the "District Court Action"). The parties in the District Court Action filed competing motions for preliminary injunction. One of the key bones of contention was the Membership Interest Purchase Agreement between CWNevada, LLC ("CWNevada"), CWNV, LLC, a to-be-formed entity ("CWNV"), NuVeda, Clark and Nye, with the effective date of December 6, 2015 (the "MIPA"). Pursuant to the MIPA, Clark and Nye were to transfer the two (2) dispensary licenses, one (1) production license, and one (1) cultivation license to CWNV, in exchange for NuVeda owning 35% of CWNV. CWNevada was to own the remaining 65% interest in CWNV.

During the evidentiary hearing on the motions, Brian Padgett, the manager of CWNevada, provided testimony on two points that are relevant to this Award. Mr. Padgett testified that "the total value benefit of everything that [CWNeVada] brings to the table we valued at \$22 million." (See JE164 at 42:1-2.) Additionally, when questioned about the amount of money NuVeda would be required to raise on its own under the MIPA, Mr. Padgett confirmed NuVeda would not have to raise any money:

Q. Mr. Padgett, there's a lot of talk about NuVeda raising funds and having to raise funds on their own in order to go forward. Let me ask you this question. Signing the CW deal how much money does NuVeda in its own, through its work through Mr. Terry, the CEO, have to raise in order to go forward with this CW deal?

A. No money.

(*Id.* at 42:23-43:4.)

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<sup>1</sup> This Arbitration was originally commenced by Ms. Goldstein and Shane Terry. During the pendency of this Arbitration, Mr. Terry sold his 21% interest in NuVeda and assigned his claims in this Arbitration to BCP Holding 7, LLC ("BCP"). Brian Padgett signed the agreement with Mr. Terry on behalf of BCP. BCP substituted into this case and then dismissed with prejudice all claims against Respondents.



After the evidentiary hearing, the Honorable District Court Judge Elizabeth Gonzalez denied the motions, finding, based on the evidence presented during the evidentiary hearing, "that there is no basis to disturb the decision made by the majority of members interests to transfer certain assets of NuVeda to [CWNV]." (See JE165.) The District Court further ordered "that pending the completion of the contemplated arbitration, the parties are to take no further action to expulse each other on the factual basis presented to the Court during the evidentiary hearing." (*Id.*) The District Court's decision was appealed to the Nevada Supreme Court. By Order of Affirmance entered on October 13, 2017, the Nevada Supreme Court affirmed the District Court's decision.

**C. Ms. Goldstein is Expulsed From NuVeda.**

During the pendency of this Arbitration, on August 8, 2017, the requisite number of Disinterested Voting Interests voted to expulse Ms. Goldstein from NuVeda pursuant to Section 6.2 of the Operating Agreement. Given that Ms. Goldstein elected to abandon any claim that she was wrongfully expulsed from NuVeda (*see* Section I(F), *infra*), the parties did not present at the Final Hearing any meaningful evidence concerning the circumstances surrounding her expulsion.

The vote to expulse Ms. Goldstein triggered certain obligations of NuVeda. Specifically, Ms. Goldstein was "entitled to receive from the Company, in exchange for all of the former Member's Ownership Interest, the fair market value of that Member's Ownership Interest, adjusted for profits and losses to the date of the expulsion...." (See Operating Agreement at Section 6.2.) If the fair market value of Ms. Goldstein's interests could not be agreed upon, "the Voting Members shall hire an appraiser to determine fair market value." (*Id.*)<sup>2</sup> The Operating Agreement further provides that "[t]he Voting Members may elect, by written notice that is provided to the expelled or deceased Member's successor-in-interest, estate or beneficiary or beneficiaries, within thirty (30) days after the Member's expulsion or death, to purchase the former Member's Ownership Interest over a one-year (1-year) period, in four (4) equal installments, with the first installment being due sixty (60) days after the Member's expulsion or date of death." (*Id.*)

**D. Certain Relevant NuVeda Contracts Are In Effect at the Time Ms. Goldstein Is Expulsed or Shortly Thereafter.**

According to the testimony provided by Dr. Bady and Mr. Kennedy, Clark Medicinal entered into an Inter-Company Agreement dated April 14, 2016 (the "APEX Agreement"). (See JE259.) Pursuant to the APEX Agreement, Clark Medicinal contributed its cultivation license and its production license to APEX Operations, LLC, in exchange for other entities loaning approximately \$6,000,000.00 in financing. Mr. Kennedy testified that approximately \$9,000,000.00 in loans were ultimately provided. Once the loans are repaid, Clark Medicinal will receive a 40% interest in the net income received by APEX Operations, LLC. (See Transcript at 358:3-20.) Dr. Bady testified that the APEX Agreement was in effect at the time Ms. Goldstein was expulsed.

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<sup>2</sup> Mr. Kennedy testified that he understood that this provision required NuVeda to "get an independent appraiser, licensed appraiser to appraise the company as of the date of the expulsion...." (See Transcript of Final Hearing ("Transcript") at 338:20-24.)

According to the testimony provided by Dr. Bady, the MIPA was also still in effect as of August 8, 2017.<sup>3</sup> However, the four (4) licenses required to be transferred by Clark and Nye pursuant to the MIPA had not yet been transferred to CWNV. The fact that three (3) of these licenses were still held by Clark and Nye is confirmed in a Purchase and Sale Agreement dated September 20, 2017 ("PSA"). (See JE263.) It is not clear why Nye's production license was omitted from the PSA. Although the PSA was later purportedly rescinded, Dr. Bady and Mr. Kennedy testified that, when they signed the PSA, they believed the facts stated thereon were true and correct. Additionally, neither Dr. Bady nor Mr. Kennedy denied that they were aware of and/or negotiating the PSA at the time Ms. Goldstein was expelled.

**E. NuVeda Purports to Determine the Fair Market Value of Ms. Goldstein's Interest in NuVeda.**

Sometime before August 13, Mr. Kennedy spoke with Michael R. Webster with Webster Business Group about performing an appraisal of NuVeda. Mr. Webster apprised Mr. Kennedy of the information Mr. Webster needed to conduct the appraisal. In response, Mr. Kennedy prepared a document titled "Assets and Liabilities as of 8-8-2017" ("Aug. 8 Document"). (See JE262.) Mr. Kennedy testified that he prepared the Aug. 8 Document by looking at NuVeda's (actual) balance sheets and profit & loss statements. Among other information contained in the Aug. 8 Document is Mr. Kennedy's assessment that NuVeda's 35% interest in CWNV had a value of \$3,500,000.00. (*Id.*)

On August 13, 2017, Mr. Kennedy, on behalf of NuVeda, retained and met with Mr. Webster. Mr. Webster was asked to "establish the value of Nuveda LLC in accordance with procedure in the removal of its Manager Jennifer Goldstein who's total compensation is seven percent (7%)." (See JE261.) To this end, Mr. Kennedy provided to Mr. Webster the Aug. 8 Document. The information contained in the Aug. 8 Document was then copied into a letter dated August 19, 2017, which purported to be a Certified Business Appraisal of NuVeda (the "Webster Appraisal"). (*Id.*) Although Mr. Webster claims to have spent a total of four (4) hours working on the Webster Appraisal, he testified that he spent "[m]aybe 10 minutes" simply adding up the assets Mr. Kennedy provided in the Aug. 8 Document, and subtracting from the total amount of the assets the liabilities that were also provided by Mr. Kennedy in the Aug. 8 Document. Mr. Webster did not undertake any effort to verify any of the information provided by Mr. Kennedy in the Aug. 8 Document.<sup>4</sup> Nor did Mr. Webster inquire about whether NuVeda was generating any revenue. Nevertheless, after performing this elementary calculation, Mr. Webster concluded in the Webster Appraisal that the fair market value of NuVeda on August 8, 2017, was \$1,695,277.00. (*Id.*)

On September 2, 2017, NuVeda's former counsel provided a copy of the Webster Appraisal to Ms. Goldstein. (See JE258.) In response, Ms. Goldstein thanked counsel and asked counsel to "provide the underlying documentation supporting these numbers" on the grounds that providing this documentation "might save all sides some time and resources." (*Id.*) Perhaps due in part to the fact that the parties were already embroiled in this Arbitration, no such documentation was forthcoming.

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<sup>3</sup> The validity, enforcement and/or reasonableness of the MIPA was not at issue in this Arbitration.

<sup>4</sup> In the Webster Appraisal, Mr. Webster states that he "does not warrant the accuracy of the information contained herein." (JE261.)

**F. The Parties Agree to Narrow the Issues for the Final Hearing.**

On November 15, 2017, Ms. Goldstein filed a Second Amended Arbitration Claim against NuVeda, Dr. Bady, and Dr. Mohajer, asserting a variety of wrongdoing. On January 10, 2019, the parties reached an agreement "that the only issue that remains is the valuation of Ms. Goldstein's shares of August 8, 2017 and whether Ms. Goldstein is entitled to her attorneys' fees because she was never offered the actual fair market value of her shares of that date." In this regard, NuVeda conceded that Ms. Goldstein should be compensated for her 7% Membership Interest. This agreement was confirmed both in e-mails and on the record at the Final Hearing.

As a result of the parties' agreement, any and all claims for relief asserted by Ms. Goldstein against individual respondents, Dr. Bady and Dr. Mohajer, were dismissed. Additionally, Ms. Goldstein abandoned any argument that she was wrongfully expelled from NuVeda. In exchange, Dr. Bady and Dr. Mohajer agreed to waive any claim to recover attorneys' fees and costs against Ms. Goldstein. Finally, during the Final Hearing, Ms. Goldstein abandoned any claim to recover attorneys' fees and costs from Dr. Bady and Dr. Mohajer, individually.

**II. DISCUSSION**

**A. Whether the Webster Appraisal Complied With the Operating Agreement.**

The first issue raised by Ms. Goldstein is whether the Webster Appraisal complied with NuVeda's obligation under the Operating Agreement to "hire an appraiser to determine [the] fair market value" of Ms. Goldstein's Membership Interest. (See Operating Agreement at Section 6.2.) Ms. Goldstein claims that the Operating Agreement required NuVeda to include her in the appraisal process. She also argues that the Webster Appraisal did not accurately reflect the fair market value of NuVeda and inappropriately relied solely on the Aug. 8 Document, without verifying the accuracy of the information contained in the Aug. 8 Document. NuVeda disagrees. Each of Ms. Goldstein's arguments is addressed in turn.

*1. Was NuVeda required to include Ms. Goldstein in the appraisal process?*

Any analysis of the terms of the Operating Agreement necessarily begins with the well-established rules of contract interpretation in Nevada. "Generally, when a contract is clear on its face, it 'will be construed from the written language and enforced as written.' The court has no authority to alter the terms of an unambiguous contract." *Canfora v. Coast Hotels & Casinos, Inc.*, 121 Nev. 771, 776, 121 P.3d 599, 603 (2005); see also *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("Under well-settled rules of contract construction a court has no power to create a new contract for the parties which they have not created or intended for themselves."). Simply put, under Nevada law, contracts must be enforced as written. See *Sandy Valley Assoc. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 953-54, 35 P.3d 964, 967 (2001). If, however, contract language is ambiguous, a court may look to parol evidence to determine what the parties intended in the contract. See *Ringle v. Bruton*, 120 Nev. 82, 86 P.3d 1032, 1037 (2004) ("The parol evidence rule does not permit the admission of evidence that would change the contract terms when the terms of a written agreement are clear, definite, and unambiguous.").

While Ms. Goldstein's first argument appears to have some merit with respect to certain sentences contained in Section 6.2, the attractiveness of Ms. Goldstein's argument diminishes

rather rapidly when compared with other sentences in the Operating Agreement. By way of an example, which is by no means exhaustive, Section 6.1 of the Operating Agreement, which addresses what happens when a Member resigns, states that "[f]air market value may be determined informally by unanimous agreement of all of the Voting Members, *including the resigning Member.*" (See Operating Agreement at Section 6.1.) (Emphasis added.) No similar language is found in Section 6.2. See e.g., *Galloway v. Truesdall*, 422 P.2d 237 (Nev. 1967) ("The maxim 'EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS', the expression of one thing is the exclusion of another, has been repeatedly confirmed in this State."). The plain language of Section 6.2 does not support Ms. Goldstein's argument.

Even if the term "Voting Members" were ambiguous as used in Section 6.2, the parties' actions and inactions cut against Ms. Goldstein's argument. See, e.g., *Casino Operations Inc. v. Graham*, 86 Nev. 764, 768, 476 P.2d 953, 956 (1970) (holding that "[w]hen the parties to a contract perform under it and demonstrate by their conduct that they knew what they were talking about, the courts should enforce that intent."); *Thompson v. Fairleigh*, 187 S.W.2d 812, 816 (Ky. 1945) ("There is an old saying of an English judge: 'Show me what the parties did under the contract and I will show you what the contract means.'").

If I were to accept Ms. Goldstein's interpretation of the term "Voting Members" in Section 6.2 to include Ms. Goldstein, one would expect to see some evidence that Ms. Goldstein, as the primary author of the Operating Agreement and legal counsel to NuVeda, informed NuVeda of her right to be part of the appraisal process when she was expelled in August 2017. Or, at minimum, one would expect Ms. Goldstein to have complained that she was left out of the process when the Webster Appraisal was provided to her on September 2, 2017. No such evidence was produced. In this way, Ms. Goldstein's lack of contemporaneous actions and statements carry more weight than her arguments now. See *Shapiro v. Sec'y of Health & Human Servs.*, 101 Fed. Cl. 532, 538 (2011) (stating that "[w]here such testimony is in conflict with contemporaneous documents we can give it little weight.").

Similarly, NuVeda proceeded on its own to hire an appraiser, thereby indicating that it interpreted the term "Voting Members" in Section 6.2 to not include Ms. Goldstein. For the reasons set forth above, I find that NuVeda did not violate the Operating Agreement when it failed to include Ms. Goldstein in the appraisal process.

## 2. *Did NuVeda fail to have an appraiser determine fair market value?*

Whether the Webster Appraisal complied with the Operating Agreement is a horse of a different hue. According to the plain language of the Operating Agreement, NuVeda was obligated to "hire an appraiser to determine fair market value." (See Operating Agreement at Section 6.2) Ms. Goldstein's expert witness, Donald Parker, and NuVeda's expert witness, Dr. Clauretje, disagreed on most things, but managed to find common ground on the definition of the term "fair market value." The term "fair market value" is defined "as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." (See RESPO57616; see also Transcript at 467:11-15.) The Webster Appraisal does not comply with this definition for several reasons.

To begin, the Webster Letter was a "book value"<sup>5</sup> or liquidation evaluation of Ms. Goldstein's ownership interest in NuVeda. (See Transcript at 272:21-22.) ("I simply subtracted the liabilities from the assets to obtain the value."). A "book value represents the total amount a company is worth if all of its assets are sold and all the liabilities are paid back. This is the amount that the company's creditors and investors can expect to receive if the company goes for liquidation."<sup>6</sup> (See also Mr. Parker's March 16, 2018, Report at 2.) ("Basing the value of a company on the Company's assets and liabilities defines either the Net Book Value or Adjusted Book Value method."). Tellingly, Section 6.1 of the Operating Agreement provides that when a Member voluntarily resigns his membership, the Member "shall be entitled to receive from the Company *only the book value of his Ownership Interest*, adjusted for profits and losses to the date of resignation...." (See Operating Agreement at Section 6.1.) (Emphasis added). Therefore, if the Members of NuVeda intended for an expelled Member to obtain "only the book value of his Ownership Interest," they would and could have said so in Section 6.2. Instead, Section 6.2 requires the appraiser to determine the fair market value.

Furthermore, the Webster Appraisal did not meaningfully appraise anything. The common meaning of the word "appraise" is "to estimate the monetary value of; determine the worth of; assess."<sup>7</sup> Yet, Mr. Webster did not "appraise" NuVeda's assets or liabilities; rather, he accepted the values given to him by Mr. Kennedy, who, in turn, received information concerning NuVeda's assets from Dr. Bady and/or came up with these numbers based on what he had "heard" licenses were "going for." (See JE262.) Thus, as Ms. Goldstein's counsel argued at the Final Hearing, the appraising was actually performed by Mr. Kennedy or Dr. Bady, on behalf of NuVeda, not by an independent appraiser. NuVeda's failure to have an appraiser actually appraise NuVeda violated Section 6.2 of the Operating Agreement.<sup>8</sup>

In a similar vein, Mr. Webster did not verify whether the assets and liabilities set forth in the Aug. 8 Document, which were copied and used in the Webster Appraisal, were accurate. Had he done so, Mr. Webster may have discovered that the actual balance sheets and profit & loss statements for NuVeda do not appear to support the numbers he utilized. For example, the Liabilities section of NuVeda's Balance Sheet as of December 31, 2017, only includes the debt owed to 2 Prime LLC. (See JE256.) No mention is made of the Judgment to 2113 Investors, Attorney Fees for Litigation, the 4 Front Litigation or a Debt to Windmill group, and there is no indication that these debts were paid off between August 8, 2017, and December 31, 2017. (*Id.*)<sup>9</sup> By way of another example, as shown in NuVeda's Profit & Loss statements for 2015, 2016 and 2017, NuVeda had paid \$130,615.74 in legal fees. It is unclear, however, what those legal fees were for. Regardless, there is simply no evidence that NuVeda was liable for \$510,513.00 in legal fees. The actual books and records produced in this Arbitration establish that the Webster Appraisal is unreliable and does not reflect the fair market value of NuVeda.

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<sup>5</sup> The term "book value" is commonly defined as (1) "the value of a business, property, etc., as stated in a book of accounts (distinguished from market value)", and (2) "total assets minus all liabilities; net worth." See <https://www.dictionary.com/browse/book-value> (last visited Jan. 23, 2019).

<sup>6</sup> See <https://www.investopedia.com/articles/investing/110613/market-value-versus-book-value.asp> (last visited Jan. 18, 2019).

<sup>7</sup> See <https://www.dictionary.com/browse/appraise?s=t> (last visited Jan. 23, 2019).

<sup>8</sup> In fact, Mr. Webster confirmed that he had never appraised a cannabis business before, and that his limited understanding of the cannabis industry in Nevada was based on what he had read. (See Transcript at 277:16-23; 290:20-23.)

<sup>9</sup> A prospective purchaser of any interest in NuVeda would not rely solely on a sheet of assets and liabilities prepared by Mr. Kennedy. Rather, the purchaser would want to review the actual books and records of NuVeda.

What's more, the Webster Appraisal does not take into account the sales that had occurred to date. For instance, if one were to add the sales listed by CWNevada<sup>10</sup> for July and August 2017 for the 3<sup>rd</sup> Street and N. Las Vegas dispensaries (Rows F-I in JE249), divide that by two (2), and multiply that by twelve (12), that would equal \$7,455,029.00. NuVeda's 35% share of that equals \$2,609,260.16 for one (1) year. Put simply, NuVeda's contention that the fair market value of NuVeda was only \$1.6 million is belied by the record.

If more were required, NuVeda failed to sufficiently explain why the value of its interest in CWNV totaled \$4,790,000.00 in March 2016 (see NUVEDA 000436), but purportedly declined to \$3,500,000.00 in August 2017, despite the commencement of recreational marijuana sales in July 2017. (See *e.g.*, Transcript at 393:7-10.) This is yet another reason why Mr. Webster needed to do more, much more, for the Webster Appraisal to qualify as a fair market value appraisal.

Finally, common sense<sup>11</sup> compels the conclusion that while a willing buyer may have purchased NuVeda for \$1,695,277.00 on or about August 8, 2017, no willing seller, much less NuVeda, would have sold NuVeda for that amount on or about August 8, 2017. In fact, NuVeda admitted during the Final Hearing that it would not have sold NuVeda for that amount on August 8, 2017. While this fact, by itself, may not establish that the Webster Appraisal did not determine the fair market value of NuVeda, when this fact is coupled with the other fatal flaws contained in the Webster Appraisal, the inescapable conclusion is that the Webster Appraisal did not establish the fair market value of NuVeda. As such, NuVeda failed to "hire an appraiser to determine fair market value" of Ms. Goldstein's Ownership Interest.

#### **B. The Fair Market Value of Ms. Goldstein's Ownership Interest.**

Having decided that the Webster Appraisal does not reflect the fair market value of NuVeda as of August 8, 2017, I must now determine the fair market value of Ms. Goldstein's Ownership Interest as of that date. In order to make this determination, I must utilize the definition of "fair market value" "as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts." This means that I must decide the fair market value based on certain relevant facts as of August 8, 2017, such as (i) the MIPA was still in effect and NuVeda owned 35% of CWNV in exchange for transferring four licenses, despite that the licenses had not yet been transferred, (ii) the 3<sup>rd</sup> Street and N. Las Vegas dispensaries were operational and generating sales from both medicinal and recreational marijuana, (iii) NuVeda had no plan to liquidate its assets, and (iv) the APEX Agreement was still in effect.<sup>12</sup>

The evidence submitted during the Final Hearing regarding fair market value consisted of, among other things, conflicting expert opinions, actual contracts entered into by NuVeda

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<sup>10</sup> It is unclear why this spreadsheet is from CWNevada, instead of CWNV. For purposes of this analysis, I presumed that the amounts stated in this spreadsheet do not reflect simply CWNevada's 65% of the sales, but reflect all sales at these locations.

<sup>11</sup> As the standard jury instruction states, "[a]lthough you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women."

<sup>12</sup> In response to a direct question I posed before closing arguments, neither party argued that the fair market value should be "adjusted for profits and losses to the date of the expulsion..." or provided sufficient information to make such an adjustment. Therefore, my determination of the fair market value of Ms. Goldstein's Ownership Interest will not include any such adjustment.

and/or the Subsidiaries, testimony by current and former members of NuVeda, and bits and pieces of information of sales of other marijuana licenses.

The standard that governs the admissibility of expert testimony is well-known. NRS 50.275 governs the admissibility of expert testimony. "To testify as an expert witness under NRS 50.275, the witness must satisfy ... three requirements: (1) he or she must be qualified in an area of 'scientific, technical or other specialized knowledge' (the qualification requirement); (2) his or her specialized knowledge must 'assist the trier of fact to understand the evidence or to determine a fact in issue' (the assistance requirement); and (3) his or her testimony must be limited 'to matters within the scope of [his or her specialized] knowledge' (the limited scope requirement)." *Hallmark v. Eldridge*, 124 Nev. 492, 498, 189 P.3d 646, 650 (2008) (quoting NRS 50.275). The district court has "wide discretion" to determine the admissibility of expert testimony on a "case-by-case basis." *Higgs v. State*, 126 Nev. 1, 18, 222 P.3d 648, 659 (2010).

Here, there were reasons to discredit certain aspects of Mr. Parker's opinions.<sup>13</sup> *First*, Mr. Parker's opinion utilized projected data for CWNV, not NuVeda. *Second*, he failed to discount any value of the licenses by 35% to reflect the MIPA arrangement. *Third*, Mr. Parker used profit and loss projections that did not conform to actual data.

Similarly, there were reasons to discredit Dr. Clauretje's opinions. *First*, he did not conduct a reasonable investigation into or verify the accuracy or comparability of the information contained in the vague Table One in his February 6, 2018, report. Rather, this information was provided to him by Dr. Bady and he sought confirmation concerning the information from Paris Balaouras, an individual he was directed to speak to by Dr. Bady. And, NuVeda failed to present sufficient evidence to establish that Table One actually contained relevant, comparable information.<sup>14</sup> Indeed, NuVeda never produced the underlying document utilized to prepare Table One.

*Second*, Dr. Clauretje's chief reason why the Webster Appraisal/liquidation method was appropriate was because NuVeda "indicated that they had trouble getting investments into the company because of the ongoing litigation that was ongoing at the time." (See Transcript at 429:4-6.) However, NuVeda was not in liquidation in August 2017. And, no substantial evidence of problems obtaining investments into NuVeda because of this Arbitration and/or the District Court Action was presented at the Final Hearing. In fact, the evidence was quite the opposite. The evidence established that NuVeda had no obligation to raise funds on its own under the MIPA, and that NuVeda obtained the requisite loans and/or investment in the APEX Agreement. *Third*, Dr. Clauretje did nothing to confirm the assets and liabilities information provided to him by NuVeda. *Fourth*, Dr. Clauretje conceded that he was not familiar with the cannabis market in Nevada. *Finally*, he effectively admitted that, if NuVeda knew in August 2017 about the value that was being negotiated in the PSA but did not him about it, he "wouldn't stand by this report."

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<sup>13</sup> The parties raised numerous objections to the experts' testimony and opinions. For the sake of brevity, I do not address every aspect of each expert's testimony that I found credible and every aspect that I found not credible. Rather, pursuant to the discussion at the end of the Final Hearing, I address a few points from each expert's testimony and opinions.

<sup>14</sup> No specific details were included in Table One, such as the size of any dispensary, the location of the business, and whether reductions or discounts were applied to or included in the value of the license. NuVeda argued that the value of the Licenses should be discounted for certain liabilities, lack of control, and lack of marketability. If, however, I were to accept the values in Table One and those values were already discounted, NuVeda would be asking me to discount the value of the Licenses twice. NuVeda was required to offer sufficient information before I could accept the values set forth in Table One.

Mr. Leauanae's testimony was, in parts, unhelpful. He did not provide an opinion on the fair market value of Ms. Goldstein's Ownership Interest. Mr. Leauanae also wrongly believed that, in August 2017, NuVeda did not have any operations or revenue. Interestingly, at times, Mr. Leauanae's criticisms of Mr. Parker's opinions could equally apply to Dr. Clauretje's opinions. (See e.g., Transcript at 522:17-24.)

However, there were aspects of the experts' opinions that did assist me in understanding the evidence or deciding a fact in issue. Taking into account and weighing all of the evidence, I determined that the fairest way to evaluate fair market value was to analyze two contracts signed by NuVeda and/or one or more the Subsidiaries, actual sales reports, and aspects of the experts' testimony.

First, I relied on the MIPA to perform part of the fair market valuation.<sup>15</sup> In December 2015, CWNevada valued its contribution of \$22,000,000.00 for a 65% share of CWNV. This results in a total valuation of CWNV of \$33,846,153.80, before the sale of recreational marijuana was approved. NuVeda's share of that amount equals \$11,846,153.80.

Mr. Terry testified that recreational sales totaled 4-5 times more than medicinal sales. However, the information provided in Exhibit 249 for the 3<sup>rd</sup> Street and N. Las Vegas dispensaries reveal recreational sales are on average 3-4 times more valuable than medicinal sales. Therefore, applying a multiplier of 3.5 to NuVeda's share of \$11,846,153.80, equals a fair market value of NuVeda's interest in CWNV at \$41,461,538.30 as of August 8, 2017. Taking 7% of that amount (\$2,902,307.68) and further reducing it by 30%<sup>16</sup> for lack of control and lack of marketability equals \$2,031,615.38. Based on the evidence, I find that the production and cultivation licenses held by Clark Medicinal were worth \$200,000.00 each (or \$400,000.00 total). Ms. Goldstein's 7% share of that amount, reduced by 30% equals \$19,600.00. Based on these calculations, the fair market value of Ms. Goldstein's Ownership Interest as of August 8, 2017, equals \$2,051,215.38.

I also considered the values assigned in the PSA. In exchange for the transfer of three (3) licenses, CWNevada agreed to make a "monthly payment of 2.625% of CW's Gross sales. Payment shall be subject to an absolute minimum of two hundred thirty five thousand eight hundred seventy dollars per month (\$235,870)." Said payments were to begin on January 1, 2018, and the minimum term for these payments was eight (8) years. This equals a minimum value of \$22,643,520.00. Additionally, CWNevada agreed to transfer a two percent (2%) equity holding in CWNevada. Mr. Parker valued this interest at \$4,000,000.00. Thus, NuVeda (or its Subsidiaries) and CWNevada valued the three (3) licenses at a *minimum* price of \$26,643,520.00. Adding \$200,000.00 to that amount for Nye's remaining production license, plus \$400,000.00 for Clark Medicinal's licenses, that equals a total fair market value of \$27,243,520.00. Taking 7% of that amount and further reducing it by 30% equals \$1,334,932.48 for Ms. Goldstein's Ownership Interest.

However, basing the fair market value of the three (3) licenses on the PSA leads to a skewed result because the value assigned in the PSA was a minimum amount for a minimum number of years. And, the PSA was rescinded for reasons unknown. Therefore, I find that the

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<sup>15</sup> If the MIPA were not in effect, the four (4) licenses would be owned 100% by NuVeda, thereby increasing the value of Ms. Goldstein's Ownership Interest.

<sup>16</sup> The experts disagreed on the percentage that should be utilized to discount for lack of control and lack of marketability. Mr. Parker proposed a 28% discount. Dr. Clauretje utilized a 20% discount. Mr. Leauanae testified he would apply a 40-45% discount. After weighing the conflicting opinions, I settled on a 30% discount for lack of control and lack of marketability.



MIPA, which NuVeda claims was and is still in effect, provides a more accurate and reliable value of Ms. Goldstein's Ownership Interest. I find that the fair market value of Ms. Goldstein's Ownership Interest in NuVeda as of August 8, 2017, equals **\$2,051,215.38**,<sup>17</sup> and that NuVeda owes Ms. Goldstein this amount.

I further find that, for the reasons set forth above, Ms. Goldstein is the prevailing party in this Arbitration on her valuation claim against NuVeda. Therefore, Ms. Goldstein is entitled to recover from NuVeda reasonable fees, costs and expenses under Section 12.10 of the Operating Agreement. Ms. Goldstein has until **5:00 p.m. PST on Friday, February 15, 2019**, to submit for my review, and serve on NuVeda's counsel and AAA, sufficient and reliable documentation concerning the fees and costs she seeks to recover consistent with the above. She shall also separate out those fees and costs incurred to prosecute her claim against NuVeda from the fees and costs she incurred to prosecute her claims against Dr. Bady and Dr. Mohajer. If Ms. Goldstein is unable to do so, she shall provide legal authority for an award of the fees and costs she seeks. Additionally, Ms. Goldstein shall include in this submission any argument for and calculation of any pre-judgment interest she believes is due to her.

NuVeda shall have until **5:00 p.m. PST on Monday, February 25, 2019**, to respond to Ms. Goldstein's submission on attorneys' fees, costs, and pre-judgment interest. No reply submission is permitted.

Following receipt and review of the above, I will issue the Final Award, which will include the monetary finding above, as well as the specific amount of fees, costs, and pre-judgment interest, if any, awarded to Ms. Goldstein.

This Award shall remain in full force and effect until such time as a final Award is rendered.

Dated: February 7, 2019.

Arbitrator Signature: \_\_\_\_\_

*Nikki A. Baker*

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<sup>17</sup> For a "sanity check," I performed many other calculations utilizing, among other information, CWNevada's sales, the \$25,000,000.00 value Dr. Bady was allegedly going to receive from Mr. Bahri, and an assumption valuing the licenses under the MIPA at \$22,000,000.00 (CWNevada's investment). The different calculations resulted in values ranging from \$1,362,171.20 to \$1,907,046.40, thereby further confirming this number fairly reflects the fair market value of Ms. Goldstein's Ownership Interest.

# **Exhibit B**

**Arbitrator's Final Award**



American Arbitration Association  
*Dispute Resolution Services Worldwide*

**AMERICAN ARBITRATION ASSOCIATION**  
**COMMERCIAL ARBITRATION TRIBUNAL**

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In the Matter of the Arbitration between:

Jennifer M. Goldstein, hereinafter referred to as "Ms. Goldstein"

-and-

NuVeda, LLC, hereinafter referred to as "NuVeda"

AAA Case #: 01-15-005-8574

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**FINAL AWARD**

I, Nikki L. Baker, THE UNDERSIGNED ARBITRATOR, having been duly sworn, and having been appointed in accordance with the arbitration agreement entered into between the above referenced parties, and reviewed the evidence and arguments set forth in Ms. Goldstein's submissions regarding attorneys' fees, costs, and prejudgment interest on February 15, 2019, being represented by David Feuerstein, Esq., and Nancy Baynard, Esq., and in NuVeda's response to the same on February 25, 2019, being represented by Matthew T. Dushoff, Esq. and Jason M. Wiley, Esq., I FIND as follows:

**A. Attorneys' Fees.**

Ms. Goldstein requests an award of \$332,352.77 in attorneys' fees. When considering the reasonableness of attorneys' fees, Nevada courts look to the following four factors:

- (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill;
- (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation;
- (3) the work actually performed by the lawyer: the skill, time and attention given to the work; and
- (4) the result: whether the attorney was successful and what benefits were derived.

*Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969); *Shuette v. Beazer Homes Holdings Corp.*, 124 P.3d 530, 549 (Nev. 2005).

In Nevada, "the method upon which a reasonable fee is determined is subject to the discretion of the court," which "is tempered only by reason and fairness." *Shuette*, 124 P.3d at 548-49. "Accordingly, in determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a 'lodestar' amount or a contingency fee." *Id.*

Here, the qualities and skills of Mr. Feuerstein, and the associates who worked with him in this Arbitration, as well as all of the other advocates presently in this Arbitration are not disputable. And, the hourly rates charged by Ms. Goldstein's counsel are well within the prevailing market rates for commercial litigation in Nevada. *See e.g., In re USA Commercial Mortg. Co. v. USA SPE LLC*, Case Nos. 2:07-CV-892-RCJ-GWF and 3:07-CV-241-RCJ-GWF, 2013 WL 3944184, \*20 (D. Nev. 2013) ("The Court finds that those suggested hourly rates are reasonable in comparison to prevailing market rates for complex commercial litigation in Nevada of between \$350 and \$775 an hour...."). NuVeda does not claim otherwise. As a result, this factor weighs in favor of the reasonableness of the attorneys' fees.

As to the second and third factors, the work performed by Mr. Feuerstein is evidenced by his Declaration and the invoices attached thereto as Exhibit D. For the reasons set forth more fully in Section B, *infra*, I disallow any recovery for the fees incurred on February 23, 2018, and February 26, 2018 (totaling \$1,350.00), relating to Mr. Feuerstein's *pro hac* application. With respect to the remainder of the work performed by Mr. Feuerstein and his team, the number of hours expended were reasonable. This factor, thus, weighs in favor of the reasonableness of the attorneys' fees.

Fourth and finally, the result of the work performed by Mr. Feuerstein and his team on behalf of Ms. Goldstein resulted in Ms. Goldstein prevailing in this Arbitration on the issue of value of her Ownership Interest in NuVeda. This successful result satisfies the fourth prong of the *Brunzell* test.

Nevertheless, Ms. Goldstein was unable or unwilling to separate out those fees that were incurred relating to her dismissed claims against Dr. Bady and Dr. Mohajer from those that were incurred to arbitrate the fair market value of her Ownership Interest. Nor did Ms. Goldstein provide to me any legal authority that would justify an award of all of the fees incurred for all of the work performed by Mr. Feuerstein and his team. And, Ms. Goldstein failed to sufficiently explain how all of the work Mr. Feuerstein performed over the past year was relevant to Ms. Goldstein's valuation claim against NuVeda, which is the only claim that proceeded to the Final Hearing. As evidenced by, among other things, the shortening of the duration of the Final Hearing, the facts related to Ms. Goldstein's claims against Dr. Bady and Dr. Mohajer were not the exact same as those related to the valuation claim against NuVeda, although there was overlap.

Therefore, I will award to Ms. Goldstein all of the fees she incurred after January 11, 2019, the date she agreed to dismiss her claims against Dr. Bady and Dr. Mohajer.<sup>1</sup> These fees total

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<sup>1</sup>I also considered awarding all of the fees incurred relating to Mr. Parker's expert report and the motions in limine that were filed relative to the expert reports. However, the invoices contained block billing on the relevant entries, and each relevant entry also contained time for a task unrelated to the expert reports, thereby preventing the time spent on the relevant tasks from being fairly separated out. (*See e.g.*, Entry by NB on January 8, 2019.) Therefore, the reduced percentage of 34% was applied to

\$36,982.50. I will also award to her \$64,847.35 in attorneys' fees, which represents 34% of the balance of the billable attorney time, minus the \$1,350.00 in fees disallowed above. I find that, under the circumstances of this case and the factors set forth in *Brunzell*, \$101,829.85 represents a reasonable amount of attorneys' fees that Ms. Goldstein is entitled to be awarded under Section 12.10 of the Operating Agreement for prosecuting and prevailing on her valuation claim against NuVeda.<sup>2</sup>

## **B. Costs.**

I turn now to the \$95,002.32 in costs sought by Ms. Goldstein. Respondents do not specifically challenge the costs incurred for the expert fees (\$9,300.00), the court stenographer (\$6,878.30), or the arbitration fees, including administrative fees, arbitrator compensation, and other expenses outlined in Exhibit H (\$23,676.25), except to argue that Ms. Goldstein failed to apportion the amounts incurred with respect to her claims against Dr. Bady and Dr. Mohajer and her claims against NuVeda. With respect to NuVeda's arguments concerning the expert fees and the court stenographer fees, I find that Ms. Goldstein is entitled to be reimbursed for the full amount of those costs.

As for the arbitration fees, including administrative fees, arbitrator compensation, and other expenses outlined in Exhibit H ("Arbitration Fees"), NuVeda's arguments have some merit. Subsequent to the parties' submissions, I was informed by AAA that of the total Arbitration Fees (representing administrative fees (\$7,700.00) and arbitrator fees (\$71,327.05)), Ms. Goldstein's share equals \$33,885.20. If I added half of the arbitrator compensation fees incurred after January 11, 2019, to the administrative fee reflected in Exhibit H and to 34% of the total arbitrator compensation fees incurred prior to January 11, 2019, the total would equal *more* than Ms. Goldstein's actual share of the Arbitration Fees. Therefore, I find that it is reasonable to require NuVeda to reimburse Ms. Goldstein the sum of \$33,885.20, which represents Ms. Goldstein's share of the Arbitration Fees.

Next, NuVeda challenges the costs incurred for air travel, lodging, and ground travel for Ms. Goldstein's out-of-state counsel. Courts have held that "under normal circumstances, a party that hires counsel from outside the forum of the litigation may not be compensated for travel time, travel costs, or the costs of local counsel." *Interfaith Cmty. Org. v. Honeywell Int'l, Inc.*, 426 F.3d 694, 710 (3d Cir. 2005), *as amended* (Nov. 10, 2005); *Guckenberger v. Boston Univ.*, 8 F. Supp. 2d 91, 106 (D. Mass. 1998) (travel time deducted where, *inter alia*, retention of California counsel was not essential but rather a "judgment call by the plaintiffs").

To be sure, Ms. Goldstein was entitled to counsel of her choosing, and such counsel may be located outside the State of Nevada. However, there are attorneys in Las Vegas who were competent to arbitrate a matter such as this one. It is not reasonable to require NuVeda to pay for Ms. Goldstein's counsels' travel to and from Nevada for this Arbitration, hotel stays, and

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those entries. *See Mendez v. Cnty. of San Bernardino*, 540 F.3d 1109, 1129 (9th Cir.2008), *overruled on other grounds by Arizona v. ASARCO LLC*, 773 F.3d 1050 (9th Cir.2014) (stating that block billing practices "are legitimate grounds for reducing or eliminating certain claimed hours, but not for denying all fees.").

<sup>2</sup> Under the circumstances of this Arbitration and because I have awarded to Ms. Goldstein the full hourly rate for her attorneys' work, I am not awarding the 5% "success fee" in the amount of \$102,560.78. Ms. Goldstein was certainly free to negotiate paying a lower amount during the pendency of this Arbitration in exchange for paying a success fee later, and such an arrangement does not seem unreasonable as between Ms. Goldstein and her counsel. However, I find that it is not reasonable to require NuVeda to shoulder the obligation of paying the success fee.

transportation while in town. Therefore, I disallow the air travel, lodging, and ground travel expenses incurred for Ms. Goldstein's out-of-state counsel to attend the Final Hearing.

Additionally, pursuant to the Nevada Supreme Court's decision in *Cadle Co. v. Woods & Erickson, LLP*, a court may not award any costs to Ms. Goldstein without "evidence enabling the Court to determine that those costs were reasonable, necessary, and actually incurred." 131 Nev. Adv. Op 15, 345 P.3d 1049, 1054 (2015) (finding the trial court abused its discretion when it awarded costs without "justifying documentation" to support the costs). Ms. Goldstein did not submit "justifying documentation" for her air travel, hotel, ground travel and/or food expenses that she now claims as costs. This is yet another reason to deny Ms. Goldstein recovery of these costs.

Finally, NuVeda argues that the \$1,138.26 charge for legal research is unreasonable. Ms. Goldstein does not provide any other details concerning the topics on which her counsel performed legal research. Nor was the "schedule showing the current basis upon which" "certain costs and expenses" were computed by Ms. Goldstein's counsel included in Exhibit C to Mr. Feuerstein's Declaration. Nevertheless, and because there is little doubt that Ms. Goldstein's counsel performed certain legal research, I find that Ms. Goldstein should recover the reasonable amount of \$400.00 for legal research costs. In total, I find that Ms. Goldstein should be awarded \$50,463.50 in reasonable costs.<sup>3</sup>

### **C. Prejudgment Interest.**

Lastly, Ms. Goldstein requests \$205,795.87 in prejudgment interest on the value assigned to her Ownership Interest, beginning on August 8, 2017, through February 7, 2019, the date of the Interim Award, plus additional prejudgment interest. NuVeda argues that only a percentage of that amount is recoverable because Ms. Goldstein does not distinguish the amount between Dr. Bady and Dr. Mohajer, and NuVeda. Because the fair market value of Ms. Goldstein's Ownership Interest is and was owed by NuVeda pursuant to Section 6.2 of the Operating Agreement, no such distinction was required to be made. The full amount of prejudgment interest is owed by NuVeda under NRS 99.040(1) up to and including the date of this Final Award.

Ms. Goldstein also seeks an award of prejudgment interest on the attorneys' fees paid by Ms. Goldstein. However, because these attorneys' fees were not awarded as special damages, but rather under Section 12.10 of the Operating Agreement, prejudgment interest on attorneys' fees is not appropriate. In addition, the amount of attorneys' fees actually paid by Ms. Goldstein was unknown by NuVeda until her submission on February 15, 2019. If more were needed, Ms. Goldstein did not establish whether the fees paid were attributable to the claims against NuVeda. For any or all of these reasons, prejudgment interest on the fees paid by Ms. Goldstein is not warranted.

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<sup>3</sup> Ms. Goldstein also requests that she be awarded \$47,660.50 in expenses she purportedly "advanced on behalf of NuVeda that were not reimbursed as part of the valuation..." However, such expenses are not recoverable under Section 12.10 of the Operating Agreement. Nor did the parties agree in writing on January 11 or at the beginning of the Final Hearing that the reimbursement of such expenses was to be considered when determining the fair market value of Ms. Goldstein's Ownership Interest as of August 8, 2017. And, Ms. Goldstein did not present any "justifying documentation" for these expenses. If Ms. Goldstein has a claim to recover this amount from NuVeda, such a claim was not before me and, therefore, I make no decision on whether Ms. Goldstein should be reimbursed for expenses she advanced on behalf of NuVeda, except to say that such expenses are not reimbursable under the plain language of Section 12.10 of the Operating Agreement.

Therefore, based on the Findings set forth in the Interim Award of Arbitrator Regarding Value dated February 7, 2019, which is incorporated by reference herein, and the Findings set forth above, I AWARD as follows:

1. Ms. Goldstein is awarded, and NuVeda shall pay Ms. Goldstein, the sum of TWO MILLION FIFTY-ONE THOUSAND TWO HUNDRED FIFTEEN DOLLARS AND THIRTY-EIGHT CENTS (\$2,051,215.38), which represents the fair market value of Ms. Goldstein's Ownership Interest in NuVeda as of August 8, 2017.

2. Ms. Goldstein is also awarded, and NuVeda shall pay Ms. Goldstein, the sum of TWO HUNDRED TWENTY-TWO THOUSAND SIX HUNDRED FIFTY-FIVE DOLLARS AND SEVEN CENTS (\$222,655.07), which represents prejudgment interest accrued on the above amount beginning on August 8, 2017, and continuing until and including March 19, 2019.

3. Ms. Goldstein is also awarded, and NuVeda shall pay Ms. Goldstein, the sum of ONE HUNDRED FIFTY-TWO THOUSAND TWO HUNDRED NINETY-THREE DOLLARS AND THIRTY-FIVE CENTS (\$152,293.35), which represents the amount of reasonable fees, costs, and expenses Ms. Goldstein is entitled to recover as the prevailing party under Section 12.10 of the Operating Agreement.

4. The above sums shall accrue post-judgment interest at the applicable statutory rate of interest commencing on March 20, 2019, until paid in full.

This Award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

Dated: March 19, 2019.

Arbitrator Signature: \_\_\_\_\_

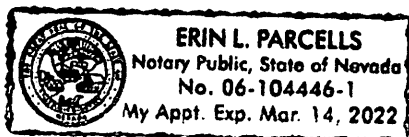
*Mikki Abaker*

Subscribed and sworn to before me  
this 19<sup>TH</sup> day of March, 2019.

*Erin L. Parcels*

NOTARY PUBLIC

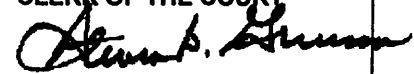
My Commission expires: March 14, 2022



# **Exhibit C**

**Findings of Fact, Conclusions  
of Law and Order**





1 **FFCO**  
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9 *Attorneys for Plaintiff Jennifer M. Goldstein*

10 **DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

13 NUVEDA, LLC, a Nevada limited liability  
14 company, SHANE M. TERRY, a Nevada  
resident; and JENNIFER M. GOLDSTEIN, a  
15 Nevada resident,

16 Plaintiffs,

17 vs.

18 PEJMAN BADY; POUYA MOHAJER; DOE  
Individuals I-X and ROE Entities I-X, inclusive,

19 Defendants.

Case No.: A-15-728510-B  
Dept. No.: 11

**[PROPOSED] FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER: (1) GRANTING PLAINTIFF  
JENNIFER M. GOLDSTEIN'S  
MOTION TO CONTINUE HEARING  
ON NUVEDA, LLC'S MOTION TO  
VACATE ARBITRATION AWARD  
AND TO EXTEND BRIEFING  
DEADLINES; (2) DENYING  
DEFENDANT NUVEDA, LLC'S  
MOTION TO VACATE ARBITRATION  
AWARD; AND (3) CONFIRMING THE  
ARBITRATION AWARD**

**Hearing Date: August 12, 2019**

24 This matter having come on for hearing related to Plaintiff Jennifer M. Goldstein's  
25 Motion to Continue Hearing on NuVeda, LLC's Motion to Vacate Arbitration Award and to  
26 Extend Briefing Deadlines (the "Motion to Continue") and Defendant NuVeda, LLC's Motion to  
27 Vacate Arbitration Award (the "Motion to Vacate") before the Court on August 12, 2019.  
28 Plaintiff Goldstein appeared by and through her counsel of record Brian Irvine of the law firm of

1 Dickinson Wright PLLC; and Defendant NuVeda, LLC appeared by and through its counsel of  
2 record Matthew Dushoff of the law firm of Kolesar & Leatham and Jason Wiley of the law firm  
3 of Wiley Petersen; the Court having read and considered the pleadings filed by the parties; the  
4 Court having considered the oral and written arguments of counsel, and with the intent of  
5 deciding the issues before the Court related to the Motion to Continue and the Motion to Vacate.  
6 The Court makes the following findings of fact and conclusions of law:

7 **FINDINGS OF FACT**

8 1. On July 9, 2014, the parties entered into an Operating Agreement for NuVeda,  
9 LLC (“NuVeda”) to operate dispensaries, cultivation and processing facilities for medical  
10 marijuana (“MME”) pursuant to licenses obtained from certain political subdivisions.

11 2. The Operating Agreement for NuVeda provided that Plaintiff Goldstein  
12 (“Goldstein”) held a 7% ownership interest in NuVeda.

13 3. Certain disputes arose between the parties over the existence and vesting of  
14 certain membership interests, management and control of NuVeda.

15 4. On December 3, 2015, Goldstein and another minority owner of NuVeda, Shane  
16 Terry (“Terry”), filed a complaint in this Court against the majority owners of NuVeda, Pejman  
17 Bady (“Bady”) and Pouya Mohajer (“Mohajer”), and contemporaneously therewith, filed a  
18 Motion for Preliminary Injunction, requesting that this Court enjoin any transfer of NuVeda’s  
19 membership interests.

20 5. Goldstein and Terry also commenced a private arbitration proceeding with the  
21 American Arbitration Association against NuVeda, Bady and Mohajer, which was captioned and  
22 referred to as *Terry, et al. v. NuVeda, LLC, et al.*, AAA Case No. 01-15-005-8574 (the  
23 “Arbitration”).

24 6. On December 28, 2015 and January 6 – 8, 2016, this Court held an evidentiary  
25 hearing on the Motion for Preliminary Injunction (the “Preliminary Injunction Hearing”).

26 7. On January 13, 2016, this Court issued its Findings of Fact and Conclusions of  
27 Law Denying the Motion for Preliminary Injunction.

28

1           8.     On March 10, 2016, a NuVeda Officer Meeting was conducted, and Terry was  
2 expelled from NuVeda.

3           9.     On August 8, 2017, during the pendency of this case and the Arbitration, the  
4 members of NuVeda conducted a meeting during which a majority of members possessing  
5 greater than 60% voting interest in NuVeda voted to expel Goldstein from Nuveda pursuant to  
6 Section 6.2 of the Operating Agreement.

7           10.    The vote to expel Goldstein triggered certain obligations of NuVeda. Specifically,  
8 Goldstein was “entitled to receive from the Company, in exchange for all of the former  
9 Member’s Ownership Interest, the fair market value of that Member’s Ownership Interest,  
10 adjusted for profits and losses to the date of expulsion.” (*See* Operating Agreement at Section  
11 6.2) If the fair market value of Goldstein’s interest could not be agreed upon, the NuVeda Voting  
12 Members were required to “hire an appraiser to determine fair market value.” (*Id.*)

13           11.    On August 19, 2017, after being retained by NuVeda, the Webster Business  
14 Group provided a Certified Business Appraisal based upon the Asset Valuation Approach  
15 (Liquidation) of NuVeda (the “Webster Valuation”), affixing NuVeda’s fair market value at  
16 \$1,695,277.00.

17           12.    During the pendency of the Arbitration, the parties disclosed numerous expert  
18 reports offering competing opinions as to the fair market value of NuVeda.

19           13.    On December 14, 2018, Goldstein disclosed the supplemental expert report of  
20 Donald Parker (“the Parker Report”), in which Mr. Parker opined that the fair market value of  
21 NuVeda was approximately \$165 million and that Goldstein’s interest in NuVeda had a fair  
22 market value of \$5 million to \$8 million after applying a discount rate of 28%.

23           14.    NuVeda filed a Motion to Strike the Parker Report in the Arbitration, arguing that  
24 the report was not timely disclosed pursuant to the deadlines established by the Arbitrator.

25           15.    On January 9, 2019, the arbitrator held a telephonic hearing on NuVeda’s Motion  
26 to Strike, as well as several other motions that were pending prior to the Arbitration hearing. The  
27 Arbitrator denied NuVeda’s Motion to Strike and also ruled that NuVeda’s expert report  
28

1 rebutting Mr. Parker's December 14, 2018 supplemental report would not be stricken on the  
2 basis that the rebuttal report had not been timely disclosed.

3 16. The parties conducted the three-day Arbitration hearing on January 15-17, 2019.  
4 The parties agreed prior to the Arbitration hearing that the only issues that remained for the  
5 Arbitrator to decide was the valuation of Goldstein's interest in NuVeda as of August 8, 2017,  
6 the date on which Goldstein was expelled from NuVeda, and whether Goldstein was entitled to  
7 an attorneys' fees award because she did not receive the fair market value of her interest in  
8 NuVeda.

9 17. Following the Arbitration hearing, the Arbitrator issued her Interim Award of  
10 Arbitrator Regarding Value ("Interim Award"), finding that NuVeda had failed to meet its  
11 obligations under the Operating Agreement to hire an appraiser to establish the fair market value  
12 of Goldstein's interest in NuVeda for several reasons; most importantly because the Webster  
13 Valuation computed the "book value" or "liquidation value" of Goldstein's interest rather than  
14 the fair market value of her interest.

15 18. The Arbitrator's Interim Award concluded that the fair market value of NuVeda  
16 was approximately \$41.5 million as of August 8, 2017, based in part upon the testimony of Brian  
17 Padgett, a member of CWNevada, LLC, during the preliminary injunction hearing before the  
18 Court in January 2016, and after applying a discount rate of 30% for lack of marketability and  
19 control, valued Goldstein's 7% interest in NuVeda at \$2,051,215.38 and ruled that NuVeda owed  
20 Goldstein that amount.

21 19. On March 19, 2019, the Arbitrator issued her Final Award, which incorporated  
22 the valuation of Goldstein's interest contained in the Interim Award and ruled that NuVeda owed  
23 Goldstein \$2,051,215.38, plus prejudgment interest from August 8, 2017 to the date of the Final  
24 Award in the amount of \$222,655.07, and also awarded Goldstein attorneys' fees and costs in the  
25 amount of \$152,293.35 as the prevailing party under Section 12.10 of the Operating Agreement,  
26 for a total award of \$2,426,163.80.

27 20. On June 17, 2019, NuVeda filed the Motion to Vacate, arguing that the Final  
28 Award should be vacated for two reasons: (a) the Arbitrator exceeded her powers and manifestly

1 disregarded the law and her own scheduling orders in considering the opinions contained in the  
2 Parker Report, which NuVeda characterized as a direct expert report rather than a supplemental  
3 expert report, and which NuVeda argued was disclosed past the deadline established by the  
4 Arbitrator for the disclosure of direct expert reports; and (b) the Arbitrator exceeded her powers  
5 and manifestly disregarded the law in looking outside the plain language of the Operating  
6 Agreement and the provisions relating to the valuation of an expelled member's interest.

7 21. On July 1, 2019, Goldstein filed the Motion to Continue seeking to (a) continue  
8 the hearing on NuVeda's Motion to Vacate; and (b) extend the deadline within which to file an  
9 opposition to NuVeda's Motion to Vacate. In so moving the Court, Goldstein cited EDCR 2.22  
10 as the only point and authority in support of her legal positions set forth therein. In its July 12,  
11 2019 Opposition to the Motion to Continue, NuVeda argued that the Motion to Continue should  
12 be denied because the lone points and authorities in support of Goldstein's position was EDCR  
13 2.22(d), which applied to the request to continue the hearing. NuVeda argued that Goldstein  
14 failed to cite the applicable rules and standards – that being EDCR 2.25 and NRCP 6 – in support  
15 of her petition to extend the briefing deadline. Moreover, NuVeda argued that Goldstein's  
16 Motion to Continue should be disregarded since it was not timely filed.

17 22. Goldstein filed her Reply in support of the Motion to Continue on July 16, 2019  
18 and filed her Opposition to the Motion to Vacate on July 25, 2019.

19 22. If any finding of fact is properly a conclusion of law, it shall be treated as if  
20 appropriately identified and designated.

## 21 CONCLUSIONS OF LAW

### 22 Motion to Continue

23 23. The Motion to Continue was made pursuant to EDCR 2.22(d), which provides  
24 that the Court may continue a hearing “upon a showing by motion supported by affidavit or oral  
25 testimony that such continuance is in good faith, reasonably necessary and is not sought merely  
26 for delay.”  
27  
28

1           24.     Goldstein's basis for the Motion to Continue was that she had engaged new  
2 counsel to oppose the Motion to Vacate, and that her counsel was in the process of obtaining the  
3 file from Goldstein's prior counsel so they could review it in order to prepare Goldstein's  
4 opposition, which necessitated additional time to brief the Motion to Vacate and a brief  
5 continuance of the hearing on the Motion to Vacate.

6           25.     In its Opposition to the Motion to Continue, NuVeda argued that the Motion to  
7 Continue should be denied because the lone points and authorities relied upon in support of  
8 Goldstein's position was EDCR 2.22(d), which applied to the request to continue the hearing.  
9 NuVeda argued that Goldstein failed to cite the applicable rules and standards – that being  
10 EDCR 2.25 and NRCR 6 – in support of her petition to extend the briefing deadline. Moreover,  
11 NuVeda argued that Goldstein's Motion to Continue should be disregarded since it was not  
12 timely filed, and that this Court should deny the Motion to Continue on that basis and, by  
13 extension, grant the Motion to Vacate pursuant to EDCR 2.20(e).

14           26.     In her Reply in support of the Motion to Continue and at the hearing, counsel for  
15 Goldstein acknowledged that the Motion to Continue was not filed within the deadline set forth  
16 in EDCR 2.20(e) because counsel was not aware that this Court had suspended EDCR 1.14(a)  
17 through (c) in a March 12, 2019 Administrative Order, which had the effect of reducing  
18 Goldstein's time to respond to the Motion to Vacate.

19           27.     In her Reply in support of the Motion to Continue and at the hearing, Goldstein  
20 also requested that this Court consider the Motion to Continue under EDCR 2.25(a), which  
21 provides, in relevant part, that "a request for extension made after the expiration of the specified  
22 period shall not be granted unless the moving party, attorney or other person demonstrates that  
23 the failure to act was the result of excusable neglect."

24           28.     The Court finds that Goldstein has demonstrated excusable neglect in failing to  
25 file the Motion to Continue or the Opposition to the Motion to Vacate prior to the expiration of  
26 the deadline established by EDCR 2.20(e), and this Court will therefore consider Goldstein's  
27 Opposition to the Motion to Vacate and decide that Motion on the merits.

28

1           29. In addition, the Court finds that there was no prejudice to NuVeda due to the late  
2 filing of the Motion to Continue, as NuVeda was able to file its Opposition to the Motion to  
3 Continue, Goldstein filed her Opposition to the Motion to Vacate well in advance of the hearing,  
4 NuVeda was able to file a Reply in support of the Motion to Vacate, and this Court reviewed and  
5 considered all of those pleadings prior to the hearing.

6           30. Moreover, this Court's decision to allow Goldstein to file her Opposition to the  
7 Motion to Vacate and to consider that Opposition is consistent with both this Court's stated  
8 policy that its Rules "must be liberally construed . . . to promote and facilitate the administration  
9 of justice" (EDCR 1.10), and the Nevada Supreme Court's long recognized and "basic  
10 underlying policy to have each case decided upon its merits." *Hotel Last Frontier Corp. v.*  
11 *Frontier Props., Inc.*, 79 Nev. 150, 155, 380 P.2d 293, 295 (1963).

12           **Motion to Vacate**

13           31. This Court may vacate an arbitration award pursuant to NRS 38.241(1)(d) where  
14 the arbitrator exceeded her powers, or under the common law where: (a) the award is arbitrary,  
15 capricious, or unsupported by the agreement; or (b) where the arbitrator manifestly disregarded  
16 the law.

17           32. With regard to NuVeda's argument that the Arbitrator exceeded her powers and  
18 manifestly disregarded the law by relying on Parker's expert witness testimony and the Parker  
19 Report, this Court finds that the Arbitrator did not exceed her powers or manifestly disregard the  
20 law.

21           33. Under both AAA's Commercial Arbitration Rules for Large, Complex Cases,  
22 which governed Arbitration, and Nevada law, the Arbitrator has broad discretion to manage the  
23 pre-hearing disclosure of documents and information, including the disclosure of expert reports.  
24 This Court will not second-guess the Arbitrator's decision to allow Goldstein to disclose Parker  
25 or the Arbitrator's decision to consider his testimony.

26           34. In addition, based upon its review of the Interim Award, the Final Award and the  
27 arbitration record, this Court finds that NuVeda was not prejudiced in any way by the  
28

1 Arbitrator's decision to consider the Parker Report and the testimony of Parker. NuVeda was  
2 permitted to rely on an expert report rebutting the Parker Report, despite the fact that the rebuttal  
3 expert report was not disclosed within the deadline imposed by the Arbitrator's Scheduling  
4 Order, and all of NuVeda's experts testified at length and offered detailed criticism of the Parker  
5 Report. NuVeda was also afforded opportunity to cross-examine Parker about all of his opinions.

6 35. Finally, this Court finds that the Arbitrator did not solely rely upon Parker's  
7 valuation of Goldstein's interest in her Award, and arrived at her valuation of Goldstein's  
8 interest based upon Terry's testimony at the hearing, Padgett's testimony at the preliminary  
9 injunction hearing, as well as other testimony and documentary evidence. NuVeda itself admits  
10 that the Award only relied on portions of Parker's opinions. Accordingly, even if this Court were  
11 to find that the Arbitrator erred in allowing Goldstein to disclose the Parker Report or relying on  
12 Mr. Parker's opinions, which it does not, such error would have constituted harmless error.

13 36. With regard to NuVeda's argument that the Arbitrator erred in interpreting the  
14 Operating Agreement and in ruling that the Webster Report did not meet NuVeda's obligation  
15 under the Operating Agreement to hire an appraiser to determine the fair market value of  
16 Goldstein's interest in NuVeda, this Court finds that the Arbitrator did not exceed her powers or  
17 manifestly disregard the law, and that the Interim Award and Final Award were not arbitrary,  
18 capricious, or unsupported by the agreement.

19 37. The Court finds that the Arbitrator's interpretation of the Operating Agreement  
20 evades judicial review by this Court. (*See Castaneda v. Palm Beach Resort Condominiums*, 127  
21 Nev. 1124, 373 P.3d 901 (2011) ("Furthermore, to the extent the Castanedas argue that the  
22 arbitrator misinterpreted the contract provision on financing, this argument evades judicial  
23 review." (citing *Hill v. Norfolk and Western Ry. Co.*, 814 F.2d 1192, 1195 (7th Cir.1987) (The  
24 question in reviewing an arbitration award "is not whether the arbitrator or arbitrators erred in  
25 interpreting the contract; it is not whether they clearly erred in interpreting the contract; it is not  
26 whether they grossly erred in interpreting the contract; it is whether they interpreted the contract.  
27 If they did, their interpretation is conclusive."))).  
28



1           38.     The Court further finds that the Arbitrator’s ruling that the Webster Report, which  
2 purported to calculate Goldstein’s interest using “book value” or “liquidation value,” did not  
3 comply with NuVeda’s obligation under Section 6.2 of the Operating Agreement to hire an  
4 appraiser to determine the fair market value of Goldstein’s interest in NuVeda, is consistent with  
5 Nevada law, as book value is not typically an accepted method to calculate fair market value.  
6 (*See American Ethanol, Inc. v. Cordillera Fund, L.P.*, 127 Nev.147, 155, n. 7, 252 P.3d 663, 668,  
7 n. 7 (2011) (noting that in determining the value of corporate stock, “[b]ook value is entitled to  
8 little, if any, weight in determining the value of corporate stock, and many other factors must be  
9 taken into consideration.”).

10           39.     Finally, this Court finds that NRS 38.241(4) requires this Court to confirm the  
11 Final Award upon denial of the Motion to Vacate.

12           40.     If any conclusion of law is properly a finding of fact, it shall be treated as if  
13 appropriately identified and designated.

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**ORDER**

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Motion to Continue is granted.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Motion to Vacate is denied.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Arbitrator's Final Award is confirmed.

IT IS SO ORDERED.

Dated this 6 day of September, 2019.


  
DISTRICT COURT JUDGE


*Respectfully submitted by:*

*Approved by:*

DICKINSON WRIGHT PLLC

WILEY PETERSEN

  
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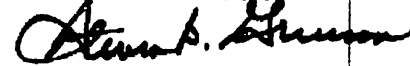
  
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*Attorneys for NuVeda, LLC*

*Attorneys for Plaintiff Jennifer M. Goldstein*

# **Exhibit D**

**Order and Judgment**



IRVINE

1 **JUDG**  
2 DICKINSON WRIGHT PLLC  
3 BRIAN R. IRVINE  
4 Nevada Bar No. 7758  
5 BROOKS T. WESTERGARD  
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12 Email: birvine@dickinsonwright.com  
13 Email: bwestergard@dickinsonwright.com  
14 *Attorneys for Plaintiff Jennifer M. Goldstein*

DISTRICT COURT  
CLARK COUNTY, NEVADA

12 NUVEDA, LLC, a Nevada limited liability  
13 company, SHANE M. TERRY, a Nevada  
14 resident; and JENNIFER M. GOLDSTEIN, a  
15 Nevada resident,

15 Plaintiffs,

16 vs.

17 PEJMAN BADCY; POUYA MOHAJER; DOE  
18 Individuals I-X and ROE Entities I-X, inclusive,

19 Defendants.

Case No.: A-15-728510-B  
Dept. No.: 11

**ORDER AND JUDGMENT**

20  
21 The Court determined that the arbitration award in favor of Plaintiff JENNIFER M.  
22 GOLDSTEIN ("Goldstein"), and against Defendant NUVEDA, LLC ("NuVeda") in the amount  
23 of \$2,426,163.80 ("Award") should be confirmed and entered its order confirming the Final  
24 Award on September 6, 2019.

25 Following confirmation of the Award, Goldstein filed a Motion for Attorneys' Fees and  
26 Costs, which the Court granted, in part, following a hearing on October 21, 2019. Goldstein also  
27 filed a Motion for Entry of Judgment requesting that this Court enter a judgment for Goldstein  
28 and against NuVeda. On October 31, 2019, the Court entered its Minute Order Granting in Part

1 Goldstein's Motion for Entry of Judgment. The Court therefore orders and enters judgment as  
2 follows:

3 IT IS HEREBY ORDERED that Goldstein's Motion for Entry of Judgment is  
4 GRANTED.

5 IT IS HEREBY FURTHER ORDERED that Goldstein is entitled to a judgment in an  
6 amount to include: (1) \$2,426,163.80, which is the amount of the Final Award; (2) plus  
7 \$112,168.53 in post-judgment interest accrued between the date of the Final Award and the date  
8 of entry of the Minute Order Granting Goldstein's Motion for Entry of Judgment; (3) plus  
9 \$26,944.08 in attorneys' fees and costs awarded by this Court pursuant to Goldstein's Motion for  
10 Attorneys' Fees and Costs.

11 THE COURT THEREFORE ENTERS JUDGMENT for Plaintiff JENNIFER M.  
12 GOLDSTEIN, and against Defendant NUVEDA, LLC in the amount of \$2,565,276.41  
13 ("Judgment"). The Judgment shall accrue post-judgment interest at the applicable statutory rate  
14 of interest commencing on October 31, 2019, until paid in full.

15 **JUDGMENT IS SO ENTERED.**

16 Dated this 13 day of November, 2019.

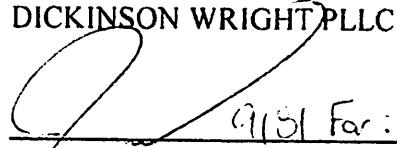
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18 \_\_\_\_\_  
DISTRICT COURT JUDGE

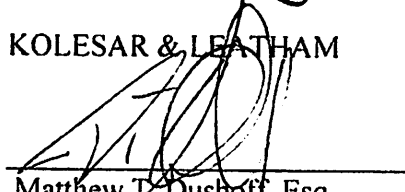
19 *Respectfully submitted by:*

Approved as to Form and Content

20 DICKINSON WRIGHT PLLC

KOLESAR & LEATHAM

21   
22 \_\_\_\_\_  
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*Attorneys for Nuveda, LLC*

*Attorneys for Plaintiff Jennifer M. Goldstein*

**CERTIFICATE OF SERVICE**


I certify that I am an employee of DICKINSON WRIGHT PLLC, and that on this date, pursuant to NRCP 5(b). I am serving a true and correct copy of the **ORDER AND JUDGMENT** on the parties as set forth below via the Court's Electronic service system to the following counsel of record:

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Shane Terry  
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DATED this 15<sup>th</sup> day of November, 2019.

  
An Employee of DICKINSON WRIGHT PLLC

RENO 88728-1 48138v2

# **Exhibit E**

## **NuVeda Operating Agreement**





---

## Operating Agreement For NuVeda, LLC

### A Nevada Limited Liability Company

This Operating Agreement (the "Agreement") is made effective as of July 9, 2014 (the "Effective Date"), by and among and those persons identified in Exhibit A (collectively, the "Members").

In consideration of the mutual covenants and conditions herein, the Members agree as follows:

#### ARTICLE I

#### ORGANIZATION

**1.1 Formation and Qualification.** The Members have formed NuVeda, LLC ("NUVEDA"), a limited liability company (the "Company") under the Nevada Limited Liability Company Act (currently Chapter 86 of the Nevada Restated Statutes) (the "Act") by filing Articles of Organization with the Nevada Secretary of State.

**1.2 Governing Law.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Nevada, including the Nevada Limited Liability Company Act, (the "Act") as amended from time to time, without regard to Nevada's conflicts of laws principles. The rights and liabilities of the Members shall be determined pursuant to the Act and this Agreement. To the extent that any provision of this Agreement is inconsistent with any provision of the Act, this Agreement shall govern to the extent permitted by the Act.

**1.3 Name.** The name of the Company shall be "NUVEDA, LLC." The business of the Company may be conducted under that name or, on compliance with applicable laws, any other name that the Voting Members deem appropriate or advisable. The Voting Members on behalf of the Company shall file any certificates, articles, fictitious business name statements and the like, and any amendments and supplements thereto, as the voting Members consider appropriate or advisable.

**1.4 Term.** The term of the Company commenced on the filing of the Articles of Organization and shall be perpetual unless dissolved as provided in this Agreement.

**1.5 Office and Agent.** The principal office of the Company shall be at such place or places of business within or without the State of Nevada as the Voting Members may determine. The Company shall continuously maintain a registered agent in the State of Nevada as required by the Act. The registered agent shall be as stated in the Certificate or as otherwise determined by the Voting Members.

**1.6 Purpose of Company.** The purpose of the Company is to engage in all lawful activities, including, but not limited to the following activities:

The research, design, creation, management, licensing, advising and consulting regarding the legal medical marijuana industry, as such matters shall be lawfully allowed under applicable state laws. Such purpose shall be broadly read to include providing management or other professional services to any individual, group or entity that is lawfully licensed, or seeking to become lawfully licensed, under any state statutory scheme providing for the legal cultivation, processing or dispensing of medical marijuana.

## ARTICLE II

### MEMBERSHIP INTERESTS, VOTING AND MANAGEMENT

**Section 2.1 Initial Members.** The initial Members of the Company are the Members who are identified in Exhibit A.

**Section 2.2 Classification of Membership Interests.** The Company shall issue Class A Voting Capital ("Voting Capital"), to the Voting Members (the "Voting Members"). The Voting Members shall have the right to vote upon all matters upon which Members have the right to vote under the Act or under this Agreement, in proportion to their respective Percentage Voting Interest ("Percentage Voting Interest") in the Company. The Percentage Voting Interest of a Voting Member shall be the percentage that is derived when the Member's Voting Capital account is divided by the total of all of the Voting Capital accounts. The Company may decide to issue Class B Nonvoting Capital (the "Nonvoting Capital") to Members who have no voting rights, but have an Ownership Interest, as defined below.

**Section 2.3 Ownership Interests.** A Member's Ownership Interest ("Ownership Interest") shall be the equity holding a Member has in the Company, which shall determine the Member's rights to profits and other payouts and, where applicable, debts and obligations to or on behalf of the Company. The "Percentage Ownership Interest" of a Voting Member shall be the percentage that is derived when the Member's Ownership Interest is divided by the total of all of the Ownership Interests of all Members. The Members shall have the initial Ownership and Voting Interests in the Company that are identified in Exhibit A, immediately following the making of the capital contributions set forth therein if any.

**Section 2.4 Management by Voting Members.** The Voting Members shall manage the Company and shall have the right to vote, in their capacity as Managers, upon all matters upon which Managers have the right to vote under the Act or under this Agreement, in proportion to their respective Percentage Voting Interests in the Company. Voting Members need not identify whether they are acting in their capacity as Members or Managers when they act.

The Nonvoting Members shall have no right to vote or otherwise participate in the management of the Company. No Nonvoting Member shall, without the prior written consent of all of the Voting Members, take any action on behalf of, or in the name of, the Company, or enter into any contract, agreement, commitment or obligation binding upon the Company, or perform any act in any way relating to the Company or the Company's assets.

**Section 2.5 Voting.** Except as otherwise provided or permitted by this Agreement, Voting Members shall in all cases, in their capacity as Members or Managers of the Company, act collectively, and, unless otherwise specified or permitted by this Agreement, upon the majority vote of the Voting Members which members establish a quorum as defined in section 4.6 of this Agreement. Except as otherwise provided or permitted by this Agreement, no Voting Member acting individually, in his capacity as a Member or Manager of the Company, shall have any power or authority to sign for, bind or act on behalf of the Company in any way, to pledge the Company's credit, or to render the Company liable for any purpose.

Unless the context requires otherwise, in this Agreement, the terms "Member" or "Members," without the qualifiers "Voting" or "Nonvoting," refer to the Voting and Nonvoting Members collectively; and the terms "Manager" or "Managers" refers to the Voting Members.

**Section 2.6 Liability of Members.** All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities

of the Company, and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member.

**Section 2.7 New Members.** The Voting Members may issue additional Voting Capital, or reallocate the Ownership Interests among the Members, and thereby admit a new Member or Members, as the case may be, to the Company, only if such new Member (i) is approved unanimously by the Voting Members; (ii) delivers to the Company his or her required capital contribution, if any; (iii) agrees in writing to be bound by the terms of this Agreement by becoming a party hereto; and (iv) delivers such additional documentation as the Voting Members shall reasonably require to so admit such new Member to the Company.

Upon the admission of a new Member or Members, as the case may be, to the Company, the capital accounts of Members, and the calculations that are based on the capital accounts, shall be adjusted appropriately.

**Section 2.8 Vesting Schedule.** The Voting and Ownership Interests of Joseph Kennedy shall become fully vested upon his provision of credit of three million dollars (\$3,000,000.00) or more on terms satisfactory to the Company. Once such terms are agreed to, Kennedy shall immediately and automatically vest in his entire Voting and Ownership Interests as set forth in Exhibit A. The Voting and Ownership Interests of Penders and Winmill are stated as a total possible, and are each subject to vesting upon the successful conclusion of each full calendar from the date hereof year as follows: Penders and Winmill shall each immediately vest in one-quarter of a percent (.25%) upon execution of this Operating Agreement. Subject to Penders and Winmill's continued provision of services in a manner satisfactory to the reasonable professional standards of a majority of the Voting Members, each shall vest in Voting and Ownership Interests at the rate of point one eight seven five of a percent (.1875%) at the conclusion of the first full calendar year, and an additional point four three seven five of a percent (.4375%) per annum for the following three (3) years. Such vesting shall be subject to the terms of the Vesting and Acceleration Agreement. Prior to them becoming vested, all Winmill and Penders unvested Voting and Ownership Interests percentages shall be allocated evenly between Pouya Mohajer and Shane Terry, assuming their continued Membership with the Company, otherwise allocated among all Voting Members in proportion to each Member's Voting and Ownership Interest percentage, to ensure a total of 100% of the Voting and Ownership Interests are allocated at all times ("Allocated Unvested Shares"). As Penders and Winmill vest in the Allocated Unvested Shares, they shall immediately and automatically be reallocated to Penders and Winmill.

With regard to any Ownership Interests granted by the Company after the execution of this Operating Agreement, such Ownership Interests shall be reallocated from existing Members as follows: all such interests shall be subtracted from the Ownership Interest of Pej Bady until such time Bady's Ownership Interest has been reduced to thirty-eight percent (38%). In the event any further or more Ownership Interests are granted by the Company, such Ownership Interests shall be sourced by taking a proportional share of the dilutable Ownership Interests of the Members. All Members whose Ownership Interests are dilutable shall have their Ownership Interest percentages reduced in proportion to their Ownership Interests relative to all other dilutable Members' Ownership Interests. Ownership Interests designated as nondilutable will not decrease.

With regard to any Voting Interests granted by the Company after the execution of this Operating Agreement, such Voting Interests shall be reallocated from existing Members as follows: all such interests shall be subtracted in equal parts from the Voting Interests of Pouya Mohajer and Shane

written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than five nor more than sixty business days before the date of the meeting unless otherwise provided, either personally or by mail, by or at the direction of the Members calling the meeting, to each Voting Member. Notice of a meeting need not be given to any Voting Member who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Voting Member.

**4.5 Record Date.** For the purpose of determining Voting Members entitled to notice of or to vote at any meeting of Voting Members or any adjournment thereof, the date on which notice of the meeting is provided shall be the record date for such determination of the Voting Members. When a determination of Voting Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

**4.6 Quorum.** Members holding at least 66% of the Voting Capital in the Company represented in person, by telephonic participation, or by proxy, shall constitute a quorum at any meeting of Voting Members. In the absence of a quorum at any such meeting, a majority of the Voting Members so represented may adjourn the meeting from time to time for a period not to exceed sixty days without further notice. However, if the adjournment is for more than sixty days, or if after the adjournment a new record date is fixed for another meeting, a notice of the adjourned meeting shall be given to each Voting Member. The Voting Members present at a duly organized meeting may continue to transact business only as previously provided on the agenda until adjournment, notwithstanding the withdrawal during such meeting of that number of Voting Members whose absence would cause less than a quorum.

**4.7 Voting.** If a quorum is present, a majority vote of the Voting Members so represented shall be the act of the Members or Managers, unless the vote of a lesser or greater proportion or number is otherwise required by the Act, by the Certificate or by this Agreement.

## ARTICLE V

### ALLOCATIONS AND DISTRIBUTIONS

**5.1 Allocations of Profits and Losses.** Subject to applicable law and any limitations elsewhere in this Agreement, Profits and Losses, after deducting Guaranteed Payments, shall be allocated among the Members in proportion to their Percentage Ownership Interests. Any special allocations necessary to comply with the requirements set forth in Internal Revenue Code Section 704 and the corresponding Regulations, including, without limitation, the qualified income offset and minimum gain chargeback provisions contained therein, shall be made if the Voting Members deem these actions to be appropriate.

**5.2 Distributions.** Subject to applicable law and any limitations elsewhere in this Agreement below, the Voting Members shall determine the amount and timing of all distributions of cash, or other assets, by the Company. Except as otherwise provided in this Agreement, all distributions shall be made as follows:

Distributions:

- Eighty percent (80%) of each distribution will be allocated among all of the Members, as follows (the "Distribution Interests"):

Pejman Bady	38%
Pouya Mohajer	25.25%
Shane Terry	25.25%
Jennifer Goldstein	7%
Joseph Kennedy	1*%
John Penders	1.75%
Ryan Winmill	1.75%

and

- Twenty percent (20%) of each distribution shall be allocated to satisfy any contractual obligations owed by the Company to consultants, vendors, advisors or others with whom the Company has an appropriate written agreement providing for such distributions (“Distributions Partners”); in the event less than 20% of the Distribution has been allocated to Distributions Partners, the unallocated percentage shall be allocated to the Members in proportion to their Percentage Distribution Interests.

Except as otherwise provided in this Agreement, the decision as to whether to make distributions shall be within the sole discretion of the Voting Members.

With regard to any Distribution Interests granted by the Company after the execution of this Operating Agreement, such Distribution Interests shall be reallocated from existing Members as follows: all such interests shall be subtracted in equal parts from the Distribution Interests of Pouya Mohajer and Shane Terry until such time Mohajer and Terry’s respective Distribution Interests have been reduced to nineteen percent (19%). In the event any further or more Voting Interests are granted by the Company, such Voting Interests shall be sourced by taking a proportional share of the dilutable Voting Interests of the Members. All Members whose Voting Interests are dilutable shall have their Voting Interest percentages reduced in proportion to their Distribution Interests relative to all other dilutable Members’ Voting Interests. Distribution Interests designated as nondilutable will not decrease.

All such distributions shall be made only to the Members who, according to the books and records of the Company, are the holders of record on the actual date of distribution. The Voting Members may base a determination that a distribution of cash may be made on a balance sheet, profit and loss statement, cash flow statement of the Company or other relevant information. Neither the Company nor the Members shall incur any liability for making distributions.

**Vesting Schedule.** The Distribution Interests of Joseph Kennedy shall become fully vested upon his provision of credit of three million dollars (\$3,000,000.00) or more on terms satisfactory to the Company. Once such terms are agreed to, Kennedy shall immediately and automatically vest in his entire Distribution Interests as set forth in Exhibit A.

**5.3 Form of Distribution.** No Member has the right to demand and receive any distribution from the Company in any form other than money. No Member may be compelled to

accept from the Company a distribution of any asset in kind in lieu of a proportionate distribution of money being made to other Members except on the dissolution and winding up of the Company.

**5.4 Non-Compete Agreement.** The Members agree that they will not at any time within one (1) year from the earlier of (1) the termination of the Member's Voting Interests for any reason or (2) the termination of this Agreement: directly or indirectly engage in or prepare to engage in, or to have any ownership interest in any business, venture or entity that engages in, or is preparing to engage in, business or activities that directly compete with the services provided by the Company, unless the Member is already engaged in such business or venture at the time this Agreement is entered into, unless such matter is agreed upon in writing by a majority of the disinterested Voting Members. Subject to the foregoing, the departing Member shall only be precluded from competing in any county in which any of the following have occurred: (1) the Company has an in process or pending application; (2) the Company has received licenses to operate any medical marijuana facility; and (3) the Company sells or delivers marijuana and marijuana products (each, a "Competing County"). For purposes of this provision, any county in which the Company's only sale or delivery was related exclusively to Auntie Dolores products shall not be deemed a Competing County unless another provision hereof applies. The other Members may override this provision is by an agreement in writing executed by a majority of the disinterested Voting Members.

## ARTICLE VI

### TRANSFER AND ASSIGNMENT OF INTERESTS

**6.1 Resignation of Membership and Return of Capital.** For a period of two (2) years after the Articles of Organization for the Company are filed ("the filing"), no Member may voluntarily resign his membership in the Company, and no Member shall be entitled to any return of capital from the company, except upon the written consent of all of the other Voting Members. During the third year after the filing, a Member may voluntarily resign his membership, but such Member shall be entitled to receive from the Company only the book value of his Ownership Interest, adjusted for profits and losses to the date of resignation, unless otherwise agreed by written consent of all of the other Voting Members. Subsequent to the third year after filing, a Member may voluntarily resign his membership and shall be entitled to receive from the Company the fair market value of his Ownership Interest, adjusted for profits and losses to the date of resignation. Fair market value may be determined informally by unanimous agreement of all of the Voting Members, including the resigning Member. In the absence of an informal agreement as to fair market value, the Voting Members shall hire an appraiser to determine fair market value. The cost of any appraisal shall be deducted from the fair market value to which the resigning Member is entitled. The other Voting Members may elect, by written notice that is provided to the resigning Member within thirty (30) days after the resignation date, for the Company to purchase the resigning Member's Interest (whether the interest is being purchased at book value or fair market value) in four (4) equal annual installments, with the first installment

being due sixty (60) days after the Member's resignation.

**6.2 Expulsion or Death of a Member.** A Member's interest in the Company may be terminated or expelled only upon agreement of the Disinterested Voting Members by a vote of 60% or more of Disinterested Voting Interests. Expulsion may only be made by a majority vote of 60% or more of the Disinterested Voting Interests that the expelled member was not acting in the best interest of the Company or was otherwise acting in a manner that was contrary to the purpose of the Company. For purposes of this provision, the "Disinterested Voting Members" shall be those Members whose membership in the Company is not then being voted upon, and "Disinterested Voting Interests" shall be the total percentage of the Ownership Interests held by the Disinterested Voting Members. By means of example only, if the Members sought to expel Member A, who owned a 20% Voting Interest, the Disinterested Voting Members would be all Members other than Member A, and the vote would require 60% of the 80% Disinterested Voting Interests to carry. In order to terminate a Member's interest a meeting of the Voting Members must be held in accordance with the provisions of Section 4.3.

Upon the expulsion or death of a Member, the Member's successor-in-interest, estate or beneficiary or beneficiaries, as the case may be, shall be entitled to receive from the Company, in exchange for all of the former Member's Ownership Interest, the fair market value of that Member's Ownership Interest, adjusted for profits and losses to the date of the expulsion or death. Fair market value may be determined informally by a unanimous good-faith agreement of all of the Voting Members. In the absence of an informal agreement as to fair market value, the Voting Members shall hire an appraiser to determine fair market value. The cost of any appraisal shall be deducted from the fair market value to which the former Member or the former Member's successor-in-interest, estate or beneficiary or beneficiaries is or are entitled. The Voting Members may elect, by written notice that is provided to the expelled or deceased Member's successor-in-interest, estate or beneficiary or beneficiaries, within thirty (30) days after the Member's expulsion or death, to purchase the former Member's Ownership Interest over a one-year (1 year) period, in four (4) equal installments, with the first installment being due sixty (60) days after the Member's expulsion or date of death. Unless otherwise agreed unanimously by the Voting Members, prior to the completion of such purchase, the former Member's successor-in-interest, estate or beneficiary or beneficiaries, shall have no right to become a Member or to participate in the management of the business and affairs of the Company as a Member or Manager, and shall only have the rights of an Assignee and be entitled only to receive the share of profits and the return of capital to which the former Member would otherwise have been entitled. The Company, or the other Voting Members, in its or their discretion, may purchase insurance on the lives of any of the Members, with the company or the purchasing Member named as the beneficiary, as the purchaser may decide, and use all or any of the proceeds from such insurance as a source of proceeds from which the deceased Member's Membership Ownership Interest may be purchased by the Company.

**6.3 Restrictions on Transfer.** Except (i) as otherwise provided in this Article or (ii) upon the unanimous consent of all of the other Voting Members, no Member shall sell, hypothecate, pledge, assign or otherwise transfer, with or without consideration, any part or all of his Ownership Interest in the Company to any other person or entity (a "Transferee"), without first offering (the "Offer") that portion of his or her Ownership Interest in the Company subject to the contemplated transfer (the "Offered Interest") first to the Company, and secondly, to the other Voting Members, at the purchase price (hereinafter referred to as the "Transfer Purchase Price") and in the manner as prescribed in the Offer.

The Offering Member shall make the Offer first to the Company by written notice (hereinafter referred to as the "Offering Notice"). Within twenty (20) days (the "Company Offer Period") after receipt by the Company of the Offering Notice, the Company shall notify the Offering Member in writing (the "Company Notice"), whether or not the Company shall accept the Offer and shall purchase all but not less than all of the Offered Interest. If the Company accepts the Offer to purchase the Offered Interest, the Company Notice shall fix a closing date not more than twenty-five (25) days (the "Company Closing Date") after the expiration of the Company Offer Period.

In the event the Company decides not to accept the Offer, the Offering Member or the Company, at his or her or its election, shall, by written notice (the "Remaining Member Notice") given within that period (the "Member Offer Period") terminating ten (10) days after the expiration of the Company Offer Period, make the Offer of the Offered Interest to the other Voting Members, each of whom shall then have a period of twenty-five (25) days (the "Member Acceptance Period") after the expiration of the Member Offer Period within which to notify in writing the Offering Member whether or not he or she intends to purchase all but not less than all of the Offered Interest. If two (2) or more Voting Members of the Company desire to accept the Offer to purchase the Offered Interest, then, in the absence of an agreement between them, such Voting Members shall have the right to purchase the Offered Interest in proportion to their respective Percentage Voting Interests. If the other Voting Members intend to accept the Offer and to purchase the Offered Interest, the written notice required to be given by them shall fix a closing date not more than sixty (60) days after the expiration of the Member Acceptance Period (hereinafter referred to as the "Member Closing Date").

The aggregate dollar amount of the Transfer Purchase Price shall be payable in cash on the Company Closing Date or on the Member Closing Date, as the case may be, unless the Company or the purchasing Voting Members shall elect by written notice that is delivered to the Offering Member, prior to or on the Company Closing Date or the Member Closing Date, as the case may be, to purchase such Offered Interest in four (4) equal annual installments, with the first installment being due on the Closing Date.

If the Company or the other Voting Members fail to accept the Offer or, if the Offer is accepted by the Company or the other Voting Members and the Company or the other Voting Members fail to purchase all of the Offered Interest at the Transfer Purchase Price within the time and in the manner specified, then the Offering Member shall be free, for a period (hereinafter referred to as the "Free Transfer Period") of sixty (60) days from the occurrence of such failure, to transfer the Offered Interest to a Transferee; provided, however, that if all of the other Voting Members other than the Offering Member do not approve of the proposed transfer by unanimous written consent, the Transferee of the Offered Interest shall have no right to become a Member or to participate in the management of the business and affairs of the Company as a Member or Manager, and shall only have the rights of an Assignee and be entitled to receive the share of profits and the return of capital to which the Offering Member would otherwise have been entitled. A Transferee shall be admitted as a Member of the Company, and as a result of which he or she shall become a substituted Member, with the rights that are consistent with the Membership Interest that was transferred, only if such new Member (i) is approved unanimously by the Voting Members; (ii) delivers to the Company his required capital contribution; (iii) agrees in writing to be bound by the terms of this Agreement by becoming a party hereto.

If the Offering Member shall not transfer the Offered Interest within the Free Transfer Period, his or her right to transfer the Offered Interest free of the foregoing restrictions shall thereupon cease



and terminate.

**6.4 Involuntary Transfer of a Membership Interest.** A creditor's charging order or lien on a Member's Membership Interest, bankruptcy of a Member resulting in an encumbrance or transfer of the Member's Membership Interest, or other involuntary transfer of Member's Membership Interest, shall constitute a material breach of this Agreement by such Member. The creditor, transferee or other claimant, shall only have the rights of an Assignee, and shall have no right to become a Member, or to participate in the management of the business and affairs of the Company as a Member or Manager under any circumstances, and shall be entitled only to receive the share of profits and losses, and the return of capital, to which the Member would otherwise have been entitled. The Voting Members, including a Voting Member whose interest is the subject of the charging order, lien, bankruptcy, or involuntary transfer, may unanimously elect, by written notice that is provided to the creditor, transferee or other claimant, at any time, to purchase all or any part of Membership Interest that was the subject of the creditor's charging order, lien, bankruptcy, or other involuntary transfer, at a price that is equal to one-half (1/2) of the book value of such interest, adjusted for profits and losses to the date of purchase. The Members agree that such valuation is a good-faith attempt at fixing the value of the interest, after taking into account that the interest does not include all of the rights of a Member or Manager, and after deducting damages that are due to the material breach of this Agreement.

## ARTICLE VII

### ACCOUNTING, RECORDS AND REPORTING

**7.1 Books and Records.** The Company shall maintain complete and accurate accounts in proper books of all transactions of or on behalf of the Company and shall enter or cause to be entered therein a full and accurate account of all transactions on behalf of the Company. The Company's books and accounting records shall be kept in accordance with such accounting principles (which shall be consistently applied throughout each accounting period) as the Voting Members may determine to be convenient and advisable. The Company shall maintain at its principal office all of the following:

A current list of the full name and last known business or residence address of each Member in the Company set forth in alphabetical order, together with, for each Member, the Class A Voting Capital account and Class B Nonvoting Capital account, including entries to these accounts for contributions and distributions; the Ownership Interest, Percentage Ownership and Voting Interests; a copy of the Certificate and any and all amendments thereto together with executed copies of any powers of attorney pursuant to which the Certificate or any amendments thereto have been executed; copies of the Company's federal, state and local income tax or information returns and reports, if any, for the six most recent taxable years; a copy of this Agreement and any and all amendments hereto together with executed copies of any powers of attorney pursuant to which this Agreement or any amendments thereto have been executed; copies of the financial statements of the Company, if any, for the six most recent Fiscal Years; the Company's books and records as they relate to the internal affairs of the Company for at least the current and past four Fiscal Years; true and full information regarding the status of the business and financial condition of the Company; and true and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each Member and which each Member has agreed to contribute in the future, and the date on

which each became a Member.

**7.2 Inspection of Books and Records.** Each Member has the right, on reasonable request for purposes reasonably related to the interest of the person as a Member or a Manager, to: (a) inspect and copy during normal business hours any of the Company's records described in Section 7.1; and (b) obtain from the Company promptly after their becoming available a copy of the Company's federal, state and local income tax or information returns for each Fiscal Year.

**7.3 Accountings.** As soon as is reasonably practicable after the close of each Fiscal Year, the Voting Members shall make or cause to be made a full and accurate accounting of the affairs of the Company as of the close of that Fiscal Year and shall prepare or cause to be prepared a balance sheet as of the end of such Fiscal Year, a profit and loss statement for that Fiscal Year and a statement of Members' equity showing the respective Capital Accounts of the Members as of the close of such Fiscal Year and the distributions, if any, to Members during such Fiscal Year, and any other statements and information necessary for a complete and fair presentation of the financial condition of the Company, all of which the Manager shall furnish to each Member. In addition, the Company shall furnish to each Member information regarding the Company necessary for such Member to complete such Member's federal and state income tax returns. The Company shall also furnish a copy of the Company's tax returns to any Member requesting the same. On such accounting being made, profits and losses during such Fiscal Year shall be ascertained and credited or debited, as the case may be, in the books of account of the Company to the respective Members as herein provided.

**7.4 Filings.** The Voting Members, at Company expense, shall cause the income tax returns for the Company to be prepared and timely filed with the appropriate authorities. The Voting Members, at Company expense, shall also cause to be prepared and timely filed with appropriate federal and state regulatory and administrative bodies amendments to, or restatements of, the Certificate and all reports required to be filed by the Company with those entities under the Act or other then current applicable laws, rules, and regulations. If the Company is required by the Act to execute or file any document and fails, after demand, to do so within a reasonable period of time or refuses to do so, any Member may prepare, execute and file that document with the Nevada Secretary of State.

**7.5 Bank Accounts.** The Company shall maintain its funds in one or more separate bank accounts in the name of the Company, and shall not permit the funds of the Company to be commingled in any fashion with the funds of any other Person.

**7.6 Tax Matters Partner.** The Voting Members may, in their exclusive discretion, appoint, remove and replace a Tax Matters Partner at any time or times. The Voting Members shall from time to time cause the Company to make such tax elections as they deem to be in the interests of the Company and the Members generally. The Tax Matters Partner, as defined in Internal Revenue Code Section 6231, shall represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting judicial and administrative proceedings, and shall expend the Company funds for professional services and costs associated therewith.

## ARTICLE VIII

### DISSOLUTION AND WINDING UP

**8.1 Dissolution.** The Company shall be dissolved, its assets shall be disposed of, and its affairs wound up on the first to occur of: the entry of a decree of judicial dissolution pursuant to

the Act; the majority approval of the Voting Members; or any other event causing a dissolution of a Limited Liability Company under the laws of the State of Nevada.

**8.2 Winding Up.** On the occurrence of an event specified in Section 8.1, the Company shall continue solely for the purpose of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors. The Voting Members shall be responsible for overseeing the winding up and liquidation of Company, shall take full account of the assets and liabilities of Company, shall cause such assets to be sold or distributed, and shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed as provided in Section 9.4. The Voting Members shall give written notice of the commencement of winding up by mail to all known creditors and claimants whose addresses appear on the records of the Company. The Members shall be entitled to reasonable compensation for such services.

**8.3 Distributions in Kind.** All noncash contributions to the Capital Accounts shall be returned to the Member who made such contribution upon dissolution of the Company, to the extent such noncash assets exist and may be legally returned to the contributing Member. Any remaining noncash assets distributed to the Members shall first be valued at their fair market value to determine the profit or loss that would have resulted if such assets were sold for such value. Such profit or loss shall then be allocated pursuant to this Agreement, and the Members' Capital Accounts shall be adjusted to reflect such allocations. The amount distributed and charged against the Capital Account of each Member receiving an interest in a distributed asset shall be the fair market value of such interest (net of any liability secured by such asset that such Member assumes or takes subject to). The fair market value of such asset shall be determined by the Voting Members, or if any Voting Member objects, by an independent appraiser (and any such appraiser must be recognized as an expert in valuing the type of asset involved) selected by a Majority of the Voting Members.

**8.4 Order of Payment of Liabilities on Dissolution.** After a determination that all known debts and liabilities of the Company in the process of winding up, including, without limitation, debts and liabilities to Members who are creditors of the Company, have been paid or adequately provided for, the remaining assets shall be distributed to the Members in proportion to their Ownership Interests.

**8.5 Adequacy of Payment.** The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, shall have been adequately provided for if payment thereof shall have been assumed or guaranteed in good faith by one or more financially responsible Persons or by the United States government or any agency thereof, and the provision, including the financial responsibility of the Person, was determined in good faith and with reasonable care by the Members to be adequate at the time of any distribution of the assets pursuant to this Section. This Section shall not prescribe the exclusive means of making adequate provision for debts and liabilities.

**8.6 Compliance with Regulations.** All payments to the Members on the winding up and dissolution of Company shall be strictly in accordance with the positive capital account balance limitation and other requirements of Regulations Section 1.704-1(b)(2)(ii)(d), as the voting Members deem appropriate.

**8.7 Limitations on Payments Made in Dissolution.** Except as otherwise specifically provided in this Agreement, each Member shall only be entitled to look solely to the assets of the Company for the return of such Member's positive Capital Account balance and shall have no recourse for such Member's Capital Contribution or share of profits (on dissolution or otherwise)

against any other Member.

**8.8 Certificate of Cancellation.** The Voting Members conducting the winding up of the affairs of the Company shall cause to be filed in the office of, and on a form prescribed by the Nevada Secretary of State, a certificate of cancellation of the Certificate on the completion of the winding up of the affairs of the Company.

## ARTICLE IX

### EXCULPATION AND INDEMNIFICATION, REPS AND WARRANTIES

**9.1 Exculpation of Members.** Subject to the limitations of section 9.3, no Member shall be liable to the Company or to the other Members for damages or otherwise with respect to any actions taken or not taken, as long as such act or omission was made in good faith and reasonably believed by such Member to be in or not opposed to the best interests of the Company, except to the extent any related loss results from fraud, gross negligence or willful or wanton misconduct on the part of such Member or the material breach of any obligation under this Agreement or of the fiduciary duties owed to the Company or the other Members by such Member.

**9.2 Indemnification by Company.** Subject to the limitations of section 9.3, below, the Company shall indemnify, hold harmless and defend the Members, in their capacity as Members, Managers, or Officers, from and against any loss, expense, damage or injury suffered or sustained by them by reason of any acts or omissions arising out of their activities on behalf of the Company or in furtherance of the interests of the Company, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim, if the acts or omissions were not performed or omitted fraudulently or as a result of gross negligence or willful misconduct by the indemnified party. Reasonable expenses incurred by the indemnified party in connection with any such proceeding relating to the foregoing matters may be paid or reimbursed by the Company in advance of the final disposition of such proceeding upon receipt by the Company of (i) written affirmation by the Person requesting indemnification of its good-faith belief that it has met the standard of conduct necessary for indemnification by the Company and (ii) a written undertaking by or on behalf of such Person to repay such amount if it shall ultimately be determined by a court of competent jurisdiction that such Person has not met such standard of conduct, which undertaking shall be an unlimited general obligation of the indemnified party but need not be secured.

**9.3 Intellectual Property Indemnification.** Notwithstanding the foregoing, each Member will indemnify, defend and hold harmless the other Member and any of its Affiliates, customers, officers, directors, employees, agents, assigns, and successors for any loss, damage, expense, costs (including, but not limited to, fees for attorneys and other professionals) or liability arising out of or in connection with a claim for intellectual property infringement or misappropriation of any patent, copyright, trade secret or other intellectual property right of a third party.

The indemnity obligations under this section are conditioned upon the Party seeking indemnification (the "Indemnified Party") (a) giving the other Party (the "Indemnifying Party") prompt Notice of such claim; (b) cooperating with the Indemnifying Party, at the Indemnifying Party's expense in the defense of such claim; and (c) giving the Indemnifying Party the right to

control the defense and settlement of any such claim, except that the Indemnifying Party shall not enter into any settlement or consent to judgment that affects the Indemnified Party's rights or interests without the Indemnified Party's prior written approval.

**9.4 Insurance.** The Company shall have the power to purchase and maintain insurance on behalf of any Person who is or was a Member or an agent of the Company against any liability asserted against such Person and incurred by such Person in any such capacity, or arising out of such Person's status as a Member or an agent of the Company, whether or not the Company would have the power to indemnify such Person against such liability under Section 10.1 or under applicable law.

## **ARTICLE X INTELLECTUAL PROPERTY**

**10.1 Definition of Intellectual Property.** "Intellectual Property" means all intellectual property rights in the United States or any foreign jurisdiction throughout the world (whether registered or not) including, without limitation, all of the following: (i) all patents and utility models and applications therefore, and all reissues, divisions, re-examinations, renewals, extensions, provisional's, continuations and continuations-in-part thereof, and equivalent or similar rights in inventions and discoveries, including without limitation, invention disclosures; (ii) all trade secrets and other rights in Technology, data, know-how and confidential or proprietary information; (iii) mask works, mask work registrations and applications therefore, and all other rights corresponding thereto throughout the world; (iv) all copyrights, copyrights registrations and applications therefore and all other rights corresponding thereto; (v) all industrial designs and any registrations and applications therefore; (vi) all rights in all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications therefore; and (vii) any similar, corresponding or equivalent rights to any of the foregoing anywhere in the world.

**10.2 Ownership of Intellectual Property.** The Parties acknowledge that any and all Intellectual Property created, used or embodied in or in connection with the Project, including without limitation any modifications or improvements made by the Parties based upon ideas, suggestions or proposals communicated between the Parties, are and shall remain the sole and exclusive property of the originating Party, and the other Party shall not during or at any time after the term of this Agreement in any way question or dispute the ownership of any such exclusive ownership rights.

**10.3 Definition of Marks.** "Mark(s)" means the trademarks, service marks, trademark and service mark applications, trade dress, trade names, logos, insignia, symbols, designs or other marks identifying a Party or its products.

**10.4 No Rights in Marks.** Nothing in this Agreement should be construed to grant either Party any rights in the Marks of the other Party. The Parties acknowledge, however, that each Party may use the name of the other Party and the name of their Products in advertising and marketing the Products or the Parties, themselves. The Products will be affixed with appropriate copyright and trademark notices sufficient to give Notice as to the rights of the Parties in their respective products.

**10.5 Confidentiality.** If, during the term, a Party receives or has access to Confidential Information belonging to the other Party, the Parties will be bound to keep all such information confidential. Confidential Information may only be used for purposes related to this Agreement and the Party receiving the confidential information must keep it confidential using the same degree of care that it exercises with respect to its own information of like importance, but in no event less than reasonable care.

## ARTICLE XI DISPUTE RESOLUTION

**11.1 Disputes Among Members.** The Members agree that in the event of any dispute or disagreement solely between or among any of them arising out of, relating to or in connection with this Agreement or the Company or its organization, formation, business or management ("Member Dispute"), the Members shall use their best efforts to resolve any dispute arising out of or in connection with this Agreement by good-faith negotiation and mutual agreement. The Members shall meet at a mutually convenient time and place to attempt to resolve any such dispute.

However, in the event that the Members are unable to resolve any Member Dispute, such parties shall first attempt to settle such dispute through a non-binding mediation proceeding. In the event any party to such mediation proceeding is not satisfied with the results thereof, then any unresolved disputes shall be finally settled in accordance with an arbitration proceeding. In no event shall the results of any mediation proceeding be admissible in any arbitration or judicial proceeding.

**11.2 Mediation.** Mediation proceedings shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA") in effect on the date the notice of mediation was served, other than as specifically modified herein, and shall be non-binding on the parties thereto.

Any Member may commence a mediation proceeding by serving written notice thereof to the other Members, by mail or otherwise, designating the issue(s) to be mediated and the specific provisions of this Agreement under which such issue(s) and dispute arose. The initiating party shall simultaneously file two copies of the notice with the AAA, along with a copy of this Agreement. A Member may withdraw from the Member Dispute by signing an agreement to be bound by the results of the mediation, to the extent the mediation results are accepted by the other Members as provided herein. A Member who withdraws shall have no further right to participate in the Member Dispute.

The Members shall select one neutral third party AAA mediator (the "Mediator") with expertise in the area that is in dispute. If a Mediator has not been selected within five (5) business days thereafter, then a Mediator shall be selected by the AAA in accordance with the Commercial Mediation Rules of the AAA.

The Mediator shall schedule sessions, as necessary, for the presentation by all Members of their respective positions, which, at the option of the Mediator, may be heard by the Mediator jointly or in private, without any other members present. The mediation proceeding shall be held in the city that is the company's principal place of business or such other place as agreed by the Mediator and all of the Members. The Members may submit to the Mediator, no later than ten (10) business days prior to the first scheduled session, a brief memorandum in support of their position.

The Mediator shall make written recommendations for settlement in respect of the dispute, including apportionment of the mediator's fee, within ten (10) business days of the last scheduled session. If any Member involved is not satisfied with the recommendation for settlement, he or she may commence an arbitration proceeding.

**11.3 Arbitration.** Arbitration proceedings shall be conducted under the Rules of Commercial Arbitration of the AAA (the "Rules"). A Member may withdraw from the Member

Dispute by signing an agreement to be bound by the results of the arbitration. A Member who withdraws shall have no further right to participate in the Member Dispute.

The arbitration panel shall consist of one arbitrator. The Members shall select one neutral third party AAA arbitrator (the "Arbitrator") with expertise in the area that is in dispute. If an Arbitrator has not been selected within five (5) business days thereafter, then an Arbitrator shall be selected by the AAA in accordance with the Commercial Arbitration Rules of the AAA. The arbitration proceeding shall be held in the city that is the company's principal place of business or such other place as agreed by the Arbitrator and all of the Members. Any arbitrator who is selected shall disclose promptly to the AAA and to both parties any financial or personal interest the arbitrator may have in the result of the arbitration and/or any other prior or current relationship, or expected or discussed future relationship, with the Members or their representatives. The arbitrator shall promptly conduct proceedings to resolve the dispute in question pursuant to the then existing Rules. To the extent any provisions of the Rules conflict with any provision of this Section, the provisions of this Section shall control.

In any final award and/or order, the arbitrator shall apportion all the costs (other than attorney's fees which shall be borne by the party incurring such fees) incurred in conducting the arbitration in accordance with what the arbitrator deems just and equitable under the circumstances.

Discovery shall not be permitted in such arbitration except as allowed by the rules of arbitration, or as otherwise agreed to by all the parties of the Member Dispute. Notwithstanding, the Members agree to make available to one another and to the arbitrator, for inspection and photocopying, all documents, books and records, if determined by the arbitration panel to be relevant to the dispute, and by making available to one another and to the arbitration panel personnel directly or indirectly under their control, for testimony during hearings if determined by the arbitration panel to be relevant to the dispute. The Members agree, unless undue hardship exists, to conduct arbitration hearings to the greatest extent possible on consecutive business days and to strictly observe time periods established by the Rules or by the arbitrator for the submission of evidence and of briefs. Unless otherwise agreed to by the Members, a stenographic record of the arbitration proceedings shall be made and a transcript thereof shall be ordered for each Member, with each party paying an equal portion of the total cost of such recording and transcription.

The arbitrator shall have all powers of law and equity, which it can lawfully assume, necessary to resolve the issues in dispute including, without limiting the generality of the foregoing, making awards of compensatory damages, issuing both prohibitory and mandatory orders in the nature of injunctions and compelling the production of documents and witnesses for presentation at the arbitration hearings on the merits of the case. The arbitration panel shall neither have nor exercise any power to act as amicable compositeur or ex aequo et bono; or to award special, indirect, consequential or punitive damages. The decision of the arbitration panel shall be in written form and state the reasons upon which it is based. The statutory, case law and common law of the State of Nevada shall govern in interpreting their respective rights, obligations and liabilities arising out of or related to the transactions provided for or contemplated by this Agreement, including without limitation, the validity, construction and performance of all or any portion of this Agreement, and the applicable remedy for any liability established thereunder, and the amount or method of computation of damages which may be awarded, but such governing law shall not include the law pertaining to conflicts or choice of laws of Nevada; provided however, that should the parties refer a dispute arising out of or in connection with an ancillary agreement or an agreement between some or all of the Members which specifically references this Article, then

the statutory, case law and common law of the State whose law governs such agreement (except the law pertaining to conflicts or choice of law) shall govern in interpreting the respective rights, obligations and liabilities of the parties arising out of or related to the transactions provided for or contemplated by such agreement, including, without limitation, the validity, construction and performance of all or any portion of such agreement, and the applicable remedy for any liability established thereunder, and the amount or method of computation of damages which may be awarded.

Any action or proceeding subsequent to any Award rendered by the arbitrator in the Member Dispute, including, but not limited to, any action to confirm, vacate, modify, challenge or enforce the arbitrator's decision or award shall be filed in a court of competent jurisdiction in the same county where the arbitration of the Member Dispute was conducted, and Nevada law shall apply in any such subsequent action or proceeding.

## **ARTICLE XII MISCELLANEOUS**

**12.1 Notices.** Except as otherwise expressly provided herein, any notice, consent, authorization or other communication to be given hereunder shall be in writing and shall be deemed duly given and received when delivered personally, when transmitted by facsimile if receipt is acknowledged by the addressee, one business day after being deposited for next-day delivery with a nationally recognized overnight delivery service, or three business days after being mailed by first class mail, charges and postage prepaid, properly addressed to the party to receive such notice at the address set forth in the Company's records.

**12.2 Severability.** If any provision of this Agreement, or the application of such provision to any Person or circumstance, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those to which it is held to be invalid or unenforceable, shall not be affected thereby.

**12.3 Binding Effect.** Subject to Article VII, this Agreement shall bind and inure to the benefit of the parties and their respective Successors.

**12.4 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**12.5 Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all prior or contemporaneous written or oral negotiations, correspondence, understandings and agreements between or among the parties, regarding the subject matter hereof.

**12.6 Further Assurances.** Each Member shall provide such further information with respect to the Member as the Company may reasonably request, and shall execute such other and further certificates, instruments and other documents, as may be necessary and proper to implement, complete and perfect the transactions contemplated by this Agreement.

**12.7 Headings; Gender; Number; References.** The headings of the Sections hereof are solely for convenience of reference and are not part of this Agreement. As used herein, each gender includes each other gender, the singular includes the plural and vice versa, as the context



may require. All references to Sections and subsections are intended to refer to Sections and subsections of this Agreement, except as otherwise indicated.

**12.8 Parties in Interest.** Except as expressly provided in the Act, nothing in this Agreement shall confer any rights or remedies under or by reason of this Agreement on any Persons other than the Members and their respective Successors nor shall anything in this Agreement relieve or discharge the obligation or liability of any third Person to any party to this Agreement, nor shall any provision give any third Person any right of subrogation or action over or against any party to this Agreement.

**12.9 Amendments.** All amendments to this Agreement shall be in writing and signed by all of the Members to the agreement at the time of the amendment.

**12.10 Attorneys' Fees.** In any dispute between or among the Company and one or more of the Members, including, but not limited to, any Member Dispute, the prevailing party or parties in such dispute shall be entitled to recover from the non-prevailing party or parties all reasonable fees, costs and expenses including, without limitation, attorneys' fees, costs and expenses, all of which shall be deemed to have accrued on the commencement of such action, proceeding or arbitration. Attorneys' fees shall include, without limitation, fees incurred in any post-award or post-judgment motions or proceedings, contempt proceedings, garnishment, levy, and debtor and third party examinations, discovery, and bankruptcy litigation, and prevailing party shall mean the party that is determined in the arbitration, action or proceeding to have prevailed or who prevails by dismissal, default or otherwise.

**12.11 Remedies Cumulative.** Subject to Article XI, remedies under this Agreement are cumulative and shall not exclude any other remedies to which any Member may be lawfully entitled.

**12.12 Jurisdiction and Venue/Equitable Remedies.** The Company and each Member hereby expressly agrees that if, under any circumstances, any dispute or controversy arising out of or relating to or in any way connected with this Agreement shall, notwithstanding Article XI, be the subject of any court action at law or in equity, such action shall be filed exclusively in the courts of the State of Nevada or of the United States of America with jurisdiction over any county of Nevada as selected by the Member that is the plaintiff in the action, or that initiates the proceeding or arbitration. Each Member agrees not to commence any action, suit or other proceeding arising from, relating to, or in connection with this Agreement except in such a court and each Member irrevocably and unconditionally consents and submits to the personal and exclusive jurisdiction of such courts for the purposes of litigating any such action, and hereby grants jurisdiction to such courts and to any appellate courts having jurisdiction over appeals from such courts or review of such proceedings. Because the breach of the provisions of this Section would cause irreparable harm and significant injury to the Company and the other Members, which would be difficult to ascertain and which may not be compensable by damages alone, each Member agrees that the Company and the other Members will have the right to enforce the provisions of this Section by injunction, specific performance or other equitable relief in addition to any and all other remedies available to such party or parties without showing or proving any actual damage to such parties. Members will be entitled to recover all reasonable costs and expenses, including but not limited to all reasonable attorneys' fees, expert and consultants' fees, incurred in connection with the enforcement of this Section.

**12.13 Authority.** This Agreement constitutes a legal, valid and binding agreement of the Member, enforceable against the Member in accordance with its terms. The Member is

empowered and duly authorized to enter into this Agreement (including the power of attorney herein) under every applicable governing document, partnership agreement, trust instrument, pension plan, charter, certificate of incorporation, bylaw provision or the like. The Person, if any, signing this Agreement on behalf of the Member is empowered and duly authorized to do so by the governing document or trust instrument, pension plan, charter, certificate of incorporation, bylaw provision, board of directors or stockholder resolution or the like.

**12.14 Indemnification by Members in Breach.** Each Member hereby agrees to indemnify and defend the Company, the other Members and each of their respective employees, agents, partners, members, shareholders, officers and directors and hold them harmless from and against any and all claims, liabilities, damages, costs and expenses (including, without limitation, court costs and attorneys' fees and expenses) suffered or incurred on account of or arising out of any breach of this Agreement by that Member.

IN WITNESS WHEREOF, this Limited Liability Company Operating Agreement has been duly executed by or on behalf of the parties hereto as of the date first above written.

Peyman Bady  
DocuSigned by:  
Member: PEYMAN BADY

Jennifer Goldstein  
DocuSigned by:  
Member: JENNIFER GOLDSTEIN

Pouya Mohajer  
DocuSigned by:  
Member: POUYA MOHAJER

Joseph Kennedy  
DocuSigned by:  
Member: JOSEPH KENNEDY

Shane Terry  
DocuSigned by:  
Member: SHANE TERRY

Member: JOHN PENDERS

[Signature]  
DocuSigned by:  
Member: ADAM WINMILL

NUVEDA, LLC

LISTING OF MEMBERS

NAME:	ADDRESS:	PERCENTAGE INTERESTS VOTING/OWNERSHIP INTERESTS/DISTRIBUTION:
Pejman Bady	PO Box 6255 Pahrump, NV 89041	46.5%/46.5%/38%
Pouya Mohajer	2700 Las Vegas Blvd. #2709 Las Vegas, NV 89109	21%/21%/25.25%
Shane Terry	4575 Dean Martin Drive #1401 Las Vegas, NV 89103	21%/21%/25.25%
Jennifer Goldstein	200 Hoover Street #1113 Las Vegas, NV 89101	7%*17%*17%*
Joe Kennedy	11115 Kilkerran Ct. Las Vegas, NV 89141	1%*/1%*/1%*
John Penders	29 Marshall Terrace Wayland, MA 01778	1.75%*/1.75%*/1.75%
Ryan Winmill	412 Princess Street Alexandria VA 222314	1.75%*/1.75%*/1.75%

\*Nondilutable interests once vested. As if this writing, the Ownership, Voting and Distribution Shares of Goldstein, Kennedy, Winmill and Penders are designated as Nondilutable

Member Listing as of this \_\_\_\_ day of \_\_\_\_\_, 2014

DocuSigned by:  
Pejman Bady  
Member: PEJMAN BADY

DocuSigned by:  
Jennifer Goldstein  
Member: JENNIFER GOLDSTEIN

DocuSigned by:  
Pouya Mohajer  
Member: POUYA MOHAJER

DocuSigned by:  
Joseph Kennedy  
Member: JOSEPH KENNEDY

DocuSigned by:  
Shane Terry  
Member: SHANE TERRY

Member: JOHN PENDERS

DocuSigned by:  
Ryan Winmill  
Member: RYAN WINMILL

### NUVEDA, LLC CAPITAL CONTRIBUTIONS

Pursuant to ARTICLE III, the Members' initial contribution to the Company capital is stated to be one million dollars (\$1,000,000.00). The description and each individual portion of this initial contribution is as follows, which amounts shall be allocated to the Capital Accounts for each Member:

Description	Value
Member: PEJ BADY	\$440,000.00
Member: POUYA MOHAJER	\$440,000.00
Member: SHANE TERRY	\$120,000.00

SIGNED AND AGREED this \_\_\_\_ day of \_\_\_\_\_, 2014.

DocuSigned by:  
Peyman Bady

Member: PEJMAN BADY

DocuSigned by:  
Pouya Mohajer

Member: POUYA MOHAJER

DocuSigned by:  
STW

Member: SHANE TERRY

DocuSigned by:  
STW

Member: RYAN WINMILL

DocuSigned by:  
Jennifer Goldstein

Member: JENNIFER GOLDSTEIN

DocuSigned by:  
Joseph Kennedy

Member: JOSEPH KENNEDY

Member: JOHN PENDERS

empowered and duly authorized to enter into this Agreement (including the power of attorney herein) under every applicable governing document, partnership agreement, trust instrument, pension plan, charter, certificate of incorporation, bylaw provision or the like. The Person, if any, signing this Agreement on behalf of the Member is empowered and duly authorized to do so by the governing document or trust instrument, pension plan, charter, certificate of incorporation, bylaw provision, board of directors or stockholder resolution or the like.

**12.14 Indemnification by Members in Breach.** Each Member hereby agrees to indemnify and defend the Company, the other Members and each of their respective employees, agents, partners, members, shareholders, officers and directors and hold them harmless from and against any and all claims, liabilities, damages, costs and expenses (including, without limitation, court costs and attorneys' fees and expenses) suffered or incurred on account of or arising out of any breach of this Agreement by that Member.

IN WITNESS WHEREOF, this Limited Liability Company Operating Agreement has been duly executed by or on behalf of the parties hereto as of the date first above written.

\_\_\_\_\_  
Member: PEJMAN BADY

\_\_\_\_\_  
Member: JENNIFER GOLDSTEIN

\_\_\_\_\_  
Member: POUYA MOHAJER

\_\_\_\_\_  
Member: JOSEPH KENNEDY

\_\_\_\_\_  
Member: SHANE TERRY

\_\_\_\_\_  
Member: JOHN PENDERS

*16 JULY 2014*

\_\_\_\_\_  
Member: RYAN WINMILL

NUVEDA, LLC

LISTING OF MEMBERS

NAME:	ADDRESS:	PERCENTAGE INTERESTS VOTING/OWNERSHIP INTERESTS/DISTRIBUTION:
Pejman Bady	PO Box 6255 Pahrump, NV 89041	46.5%/46.5%/38%
Pouya Mohajer	2700 Las Vegas Blvd. #2709 Las Vegas, NV 89109	21%/21%/25.25%
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Ryan Winmill	412 Princess Street Alexandria VA 222314	1.75%*/1.75%*/1.75%

\*Nondilutable interests once vested. As if this writing, the Ownership, Voting and Distribution Shares of Goldstein, Kennedy, Winmill and Penders are designated as Nondilutable

Member Listing as of this 16 day of JULY, 2014

\_\_\_\_\_  
Member: PEJMAN BADY

\_\_\_\_\_  
Member: JENNIFER GOLDSTEIN

\_\_\_\_\_  
Member: POUYA MOHAJER

\_\_\_\_\_  
Member: JOSEPH KENNEDY

\_\_\_\_\_  
Member: SHANE TERRY

\_\_\_\_\_  
Member: JOHN PENDERS

\_\_\_\_\_  
Member: RYAN WINMILL

**NUVEDA, LLC  
CAPITAL CONTRIBUTIONS**

Pursuant to ARTICLE III, the Members' initial contribution to the Company capital is stated to be one million dollars (\$1,000,000.00). The description and each individual portion of this initial contribution is as follows, which amounts shall be allocated to the Capital Accounts for each Member:

Description	Value
Member: PEJ BADC	\$440,000.00
Member: POUYA MOHAJER	\$440,000.00
Member: SHANE TERRY	\$120,000.00

SIGNED AND AGREED this 16 day of JULY, 2014.

\_\_\_\_\_  
Member: PEJMAN BADC

\_\_\_\_\_  
Member: JENNIFER GOLDSTEIN

\_\_\_\_\_  
Member: POUYA MOHAJER

\_\_\_\_\_  
Member: JOSEPH KENNEDY

\_\_\_\_\_  
Member: SHANE TERRY

\_\_\_\_\_  
Member: JOHN PENDERS

\_\_\_\_\_  
Member: RYAN WINMILL

# **Exhibit F**

## **Membership Interest Purchase Agreement**



**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (this "Agreement") is made as of December 6, 2015 (the "Effective Date"), by and among C/WNEVADA, LLC, a Nevada limited liability company (the "Transferor" or "CWNV"), C/WNV, LLC, a to-be-formed Nevada limited liability company ("CWNV"), NuVeda LLC, a Nevada limited liability company (the "Transferor" or "NuVeda"), Clark NMSD LLC, a Nevada limited liability company ("Clark"), and Nye Natural Medicinal Solutions LLC, a Nevada limited liability company ("Nye").

**RECITALS:**

WHEREAS, NuVeda owns One Hundred Percent (100%) of the membership interests in Clark; and

WHEREAS, NuVeda owns One Hundred Percent (100%) of the membership interests in Nye, subject to the disclosure set forth in Section 2.1 below; and

WHEREAS, Clark has been issued the following provisional Medical Marijuana Establishment Certificates (as such term is defined in Nevada Revised Statutes ("NRS"), Chapter 453A):

(i) Application Identifier No. D186, Reference #: 25025985357868237824 ("Dispensary 1") and issued by the State of Nevada Division of Public and Behavioral Health (the "Division"), for the dispensing of medical marijuana at a dispensary located at 1320 S. 3<sup>rd</sup> Street, Las Vegas, NV 89104 and more particularly described as Assessor's Parcel Number 162-03-110-137 (the "Dispensary 1 Property"); and

(ii) Application Identifier No. D187, Reference #: 94090342955467020377 ("Dispensary 2") and issued by the Division for the dispensing of medical marijuana at a dispensary located at 2113 N. Las Vegas Blvd., North Las Vegas, NV 89030 and more particularly described as Assessor's Parcel Number 139-23-201-006 (the "Dispensary 2 Property"); and

WHEREAS, Nye has been issued the following provisional Medical Marijuana Establishment Certificates (as such term is defined in Nevada Revised Statutes ("NRS"), Chapter 453A):

(i) Application Identifier No. C166, Reference #: 40733091629454751109 ("Cultivation") and issued by the Division, for the cultivation of medical marijuana at a cultivation facility at 2801 E. Thousandaire Blvd., Pahrump, NV 89048 and more particularly described as Assessor's Parcel Number 044-561-16 (the "C&P Property") and, collectively with the Dispensary 1 Property and the Dispensary 2 Property, the "Properties" and, each individually, a "Property"; and

- (ii) Application Identifier No. P107, Reference #: 91604693916166507699 ("Production") and issued by the Division, for the production of medical marijuana products at a production facility located at the C&P Property (all of the foregoing listed Medical Marijuana Certificates shall be collectively referred to herein as the "Certificates" or the "Licenses"); and

WHEREAS, specifically subject to all required state and local approvals from the State of Nevada, Clark County, and Nye County (collectively, the "Transfer Approvals"), Transferee desires to purchase and NuVeda desires to sell to Transferee 100% of the membership interests in Clark and Nye, on the terms and conditions set forth in this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the parties hereby agree as follows:

### SECTION 1

#### Purchase and Sale of Interests

1.1 Purchase and Sale of Interests. Subject to the terms and conditions of this Agreement, the Transferee shall purchase, and Transferor shall sell, 100% of the membership interests owned by Transferor in Clark and Nye, for the following consideration:

(a) Transferee shall cause to be formed a new manager-managed Nevada limited liability company, defined as "CWNV" herein, pursuant to the filing of Articles of Organization with the Nevada Secretary of State in a form mutually acceptable to NuVeda and CW (the "Articles"). Upon the formation of CWNV, Transferee shall designate CWNV as its nominee hereunder and, despite such designation of CWNV as nominee hereunder, CW and CWNV shall thereafter be jointly and severally responsible for all obligations of CWNV under this Agreement;

(b) Upon the formation of CWNV, CWNV shall be owned as follows: (i) thirty-five percent (35%) of the issued and outstanding membership interests in CWNV shall be issued and owned by NuVeda; and (ii) sixty-five percent (65%) of the issued and outstanding membership interests in CWNV shall be issued and owned by CW. Upon the formation of CWNV, a membership interest/manager ledger for CWNV shall be duly executed by both NuVeda and CW as members of CWNV and setting forth the membership interests and managers of CWNV (the "Ledger").

(c) Upon the formation of CWNV and to be further described in the operating agreement for CWNV (the "Operating Agreement"), CWNV shall have a Board of Managers consisting of three (3) individuals (the "Board"). For so long as NuVeda or its permitted assignee under the terms of the Operating Agreement is a member of CWNV, NuVeda shall be entitled to select one (1) individual to serve as a member of the Board. In the event the Board is increased in accordance with the terms of the Operating Agreement in the future, and which can only be increased to an odd number of managers and never decreased below three (3) managers, NuVeda shall have the right to

appoint the requisite number of managers constituting just less than a majority of the managers for so long as NuVeda or its permitted assignee is a member of CWNV.

(d) Immediately after the formation of CWNV and execution of the Ledger, NuVeda and CW shall commence good faith negotiations and use each of their best efforts to finalize and execute a mutually agreeable Operating Agreement with terms and provisions customary to an operating agreement of a limited liability company and which will include, without limitation, the following provisions:

- (i) The unanimous approval of all members for the admission of a new member to CWNV; the sale of all or substantially all of the assets of CWNV; and the dissolution of CWNV.
- (ii) Restrictions on transfer of membership interests in CWNV, including, without limitation, rights of first refusal to CWNV and the members but subject to customary permitted transfers;
- (iii) The approval of a majority of the members in CWNV to authorize and effectuate customary "major decisions" including, without limitation, mergers, conversions, exchanges or similar reorganizations that are in the best interest of CWNV;
- (iv) The requirement to provide monthly financial statements to the members of CWNV; and
- (v) The requirement to obtain and maintain necessary insurance policies, including, without limitation, general liability covering the operations of CWNV.

(e) Commencing as of the Effective Date, CW shall commence finding, and paying for, one hundred percent (100%) of: (i) all necessary tenant improvements, furniture, fixtures, equipment, and fees and expenses relating thereto, for the development of the facilities on the Properties and all matters relating thereto in the manner and as further described on Schedule 1 attached hereto and incorporated herein by this reference (collectively, the "Tenant Improvements"), (ii) all fees and expenses to effectuate the transfer and obtain the Transfer Approvals, and (iii) sufficient working capital for the operation of the businesses of Clark and Nye.

## SECTION 2

### State and Local Approvals; Cooperation; Coordination; Requirements

2.1 State and Local Approval. CWNV shall use its best efforts to obtain all Transfer Approvals, including from the Division and from Clark County and Nye County (collectively, the "Counties" and, each individually, a "County"). At the direction of CW and as soon as is practicable after the Effective Date, CWNV shall submit to the Division and the Counties all applications, supporting materials, fees and other documents which are necessary for consideration by the applicable Governmental Authority. If either (i) the Division or a County denies CWNV's request for approval of the transfer of the membership interests to CWNV pursuant to the terms herein, then the parties hereto shall continue to work together in good faith to obtain the Transfer Approvals in accordance with all applicable legal requirements, and, upon CWNV obtaining same, the parties agree to reasonably work together to negotiate in good faith and execute any required assignment or

redemption documents or amendments to the Operating Agreement necessary to effectuate the transactions contemplated herein, if any, but continuing to preserve the material terms and proposed economics herein. Notwithstanding anything contained herein to the contrary, CW acknowledges and understands that at the time of the filing of the initial applications with the applicable Governmental Authorities by NuVeda in an effort to obtain approval for the licenses and certificates of Nye, Mr. Phil Ivey, individually ("Ivey"), was listed as a three percent (3%) owner of Nye. In the event of any issues with respect to any alleged ownership interest in Nye by Ivey, including, without limitation, obtaining the Transfer Approvals, NuVeda and CW shall use best efforts to remedy such issues with Ivey and the applicable Governmental Authorities in order to effectuate the transactions described herein.

2.2 **Cooperation; Coordination of Tenant Improvements.** NuVeda will, whenever and as often as it shall be requested to do so by CWNV, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all such further conveyances, assignments, approvals, consents and any and all other documents and do any and all other acts as may be necessary to carry out the intent and purpose of this Agreement or as necessary to construct the Tenant Improvements. In connection with the above, as time is of the essence, immediately following the execution and delivery of this Agreement by the parties hereto, and subject to the reasonable notice and approval by NuVeda of all plans and contracts (approval of which shall not be unreasonably withheld), CWNV hereby covenants and agrees, at no cost to NuVeda, to hire qualified contractors and other professionals and procure and maintain the necessary insurance policies in connection with the Tenant Improvements and to prepare plans, submit plans to the Government Authorities for approvals and permitting and to diligently proceed with construction of all Tenant Improvements necessary to open for business in accordance with the timeline described in Schedule 1 and incorporated herein by this reference (the "Timeline"). CWNV further covenants and agrees that it will take all such action as is necessary via best efforts to maintain the Licenses in good standing at all times.

2.3 **NRS Chapter 453A Changes.** The parties acknowledge that revisions to NRS Chapter 453A have been adopted by the Nevada legislature and that new Administrative Regulations have been promulgated in connection therewith. The parties also acknowledge that the Division promulgated a Policy, effective on November 11, 2015, that provides specific procedures for the transfer of ownership interests in an entity with a Medical Marijuana Establishment Certificate. Accordingly, the parties agree to cooperate as the legislative and regulatory changes go into effect and agree to work together in good faith to restructure the transactions contemplated herein, if necessary, but continuing to preserve the material terms and proposed economics herein, as the changes go into effect and new regulations or policies are promulgated in connection therewith.

2.4 **NRS Sections 108.2403 and 108.2407.** Pursuant to NRS Section 108.234, NuVeda hereby informs CWNV that when CWNV undertakes the Tenant Improvements, CWNV must comply with the requirements of NRS Sections 108.2403 and 108.2407. CWNV shall take all actions necessary under Nevada law to ensure that no liens encumbering Clark's and Nye's interest in each's respective facilities arise as a result of the construction of the Tenant Improvements.

2.5 **No Liens.** CWNV shall not permit mechanic's or other liens to be placed upon Clark's or Nye's facilities in connection with any work or service done or purportedly done by or for the benefit of CWNV, including, without limitation, the construction of the Tenant Improvements. If a lien is so placed, CWNV shall, within ten (10) days of notice from Clark or Nye of the filing of the

lien, fully discharge the lien by settling the claim which resulted in the lien or by bonding or insuring over the lien in the manner prescribed by the applicable lien law.

2.6 **Indemnity.** CWNV shall indemnify and hold NuVeda, its trustees, affiliates, subsidiaries, members, managers, principals, beneficiaries, partners, officers, directors, shareholders, employees, agents, successors and assigns (collectively, "NuVeda Parties") harmless from, and indemnify and defend such parties against, all liabilities, obligations, damages, penalties, claims, actions, costs, charges and expenses, including reasonable attorneys' fees and other professional fees that may be imposed upon, incurred by or asserted against any of the NuVeda Parties (each a "Claim" and collectively "Claims") that arise out of the presence, use, construction or repair of the Tenant Improvements and the Clark or Nye facilities by CWNV or any of CWNV's employees, agents or invitees or any act or omission of CWNV or any of CWNV's employees, agents or invitees in those facilities.

2.7 **Assumption of Risk.** CWNV hereby acknowledges and agrees that it assumes all risk by entering the Clark and Nye facilities and hereby fully releases NuVeda of all Claims arising under or relating to the presence of CWNV or any of its officers, managers, members, agents, representatives, or contractors at those facilities and on the Properties.

### SECTION 3

#### Payment of Contractual Costs

3.1 **Operating and Improvement Costs.** As of the Effective Date, and not including the Debt of NuVeda under and defined in Section 9.1(g) below, CWNV shall pay, or reimburse NuVeda for, as applicable, all costs and expenses incurred by NuVeda on and after the Effective Date under contracts in effect as of the Effective Date; provided, however, that CWNV shall have the right to reject any such contracts at no cost to CWNV, but not including any contract with Front Consultants existing as of the Effective Date which is not subject to rejection by CWNV, by written notice to NuVeda, Clark and Nye on or before the thirtieth (30<sup>th</sup>) business day following the Effective Date, and NuVeda shall satisfy any remaining obligations under such rejected contracts, if any, and CWNV shall have no liability therefor.

### SECTION 4

#### General Representations and Warranties of NuVeda

NuVeda hereby represents and warrants to CWNV as follows:

4.1 **Organization and Standing.** NuVeda is a limited liability company duly organized, validly existing under and in good standing under the Laws of the State of Nevada.

4.2 **Legal Power.** NuVeda has the limited liability company power and authority to execute and deliver this Agreement and to carry out and perform its obligations under the terms of this Agreement.

4.3 **Unencumbered Member Interests.** The membership interests in Clark and Nye are owned by NuVeda free of any claims, liens and encumbrances and there are no options, warrants or other rights to purchase any of NuVeda's membership interests in Clark and Nye, other than pursuant to the transactions contemplated herein.

4.4 **License.** NuVeda has delivered to CWNV a true, correct and complete copy of the Licenses and all applications relating thereto. NuVeda has not received any written notice that NuVeda, Clark or Nye are in default under any of the licenses.

4.5 **Real Property Rights.** NuVeda has delivered true, correct and complete copies of all deeds, documents, leases (including all addendums and amendments thereof), relating to the rights of Clark and Nye to occupy its respective Property and operate its businesses to CWNV. Those rights are in full force and effect, without any default thereunder.

4.6 **Authorization.** All limited liability actions on the part of NuVeda, its managers and its members necessary for the authorization, execution, delivery and performance of this Agreement by NuVeda, and the performance of all of NuVeda's obligations under this Agreement have been taken. This Agreement, when executed and delivered by NuVeda, shall constitute the valid and binding obligation of NuVeda, enforceable in accordance with its terms.

4.7 **Compliance with Other Instruments.** NuVeda is not in violation of any material term of its Articles of Organization or NuVeda's Operating Agreement, each as executed and amended on or before the Effective Date. The execution, delivery and performance of and compliance with this Agreement, and the issuance of membership interests to CWNV will not result in any material violation of, or conflict with, or constitute a default under, NuVeda's Articles of Organization, NuVeda's Operating Agreement, or any contracts under which it is bound.

4.8 **Governmental Consent.** No consent, approval, authorization, order, filing, registration or qualification of or with any court, Governmental Authority or third person, other than the Division and the Counties, on the part of NuVeda is required in connection with the execution and delivery of this Agreement, the performance of NuVeda's obligations hereunder, or the consummation of any other transaction contemplated by this Agreement, except for the approvals required under applicable state and local Laws, including, without limitation, the approval of any provisions License extensions, the applications of which are due to the applicable Governmental Authorities no later than December 15, 2015.

4.9 **Adoption of Recitals.** NuVeda adopts and incorporates by reference herein all of the recitals to this Agreement, insofar as those recitals apply to it and the membership interests in Clark and Nye.

## SECTION 5

### **General Representations and Warranties of CWNV**

CW and CWNV hereby represent and warrant to NuVeda as follows:

5.1 **Formation.** CW is, and CWNV will be, duly formed, validly existing and in good standing under the Laws of the State of Nevada.

5.2 **Legal Power and Capacity.** CW and CWNV have the power and authority and, as applicable, the legal capacity to execute and deliver this Agreement and to carry out and perform its obligations under the terms of this Agreement.

5.3 **Authorization.** All actions on the part of CW and CWNV necessary for the authorization, execution, delivery and performance of this Agreement by each of them, and the performance of all of CW and CWNV's obligations under this Agreement have been taken. This Agreement, when executed and delivered by CW and CWNV, shall constitute the valid and binding obligation of each of them enforceable in accordance with its terms.

5.4 **Compliance with Other Instruments.** The execution, delivery and performance by CW and CWNV of this Agreement, and the consummation of the transactions contemplated hereby do not and will not: (a) conflict with or result in a violation or breach of, or default under, any provision of the articles, operating agreement or other organizational documents of CW or CWNV; (b) conflict with or result in a violation or breach of any provision of any Law or governmental order applicable to CW or CWNV; or (c) require the consent, notice or other action by any person under any agreement to which CW or CWNV is a party.

5.5 **Governmental Consent.** No consent, approval, authorization, order, filing, registration or qualification of or with any court, Governmental Authority or third person on the part of CW or CWNV is required in connection with the execution and delivery of this Agreement, the performance of CW and CWNV's obligations hereunder, or the consummation of any other transaction contemplated by this Agreement, except for the approvals required under applicable state and local Laws.

5.6 **Adoption of Recitals.** CW and CWNV adopt and incorporate by reference herein all of the recitals to this Agreement, insofar as those recitals apply to them.

## SECTION 6

### **Survival; Indemnification**

6.1 **Survival.** The representations and warranties of NuVeda, CW and CWNV contained in this Agreement will survive the Closing until the date that is twelve (12) months following the date upon which the Transfer Approvals are obtained.

6.2 **NuVeda Indemnification.** NuVeda indemnifies CW and CWNV in respect of, and holds each of them harmless from and against any and all losses, damages, liabilities and expenses suffered, incurred or sustained by any of them or to which any of them becomes subject, resulting from, arising out of or relating to any breach of representation or warranty by NuVeda or nonfulfillment of failure to perform any covenant or agreement by NuVeda contained in this Agreement (determined in all cases as if the terms "material" or "materially" were not included therein).

6.3 **CW and CWNV Indemnification.** CW and CWNV, jointly and severally, indemnify NuVeda in respect of, and hold it harmless from and against, any and all losses suffered, incurred or sustained by it or to which it becomes subject, resulting from, arising out of or relating to

any breach of representation or warranty of CW or CWNV or nonfulfillment of or failure to perform any covenant or agreement by CW or CWNV contained in this Agreement (determined in all cases as if the terms "material" or "materially" were not included therein).

6.4 The indemnity provisions contained in Sections 6.2 and 6.3 shall survive for a period of twelve (12) months following the date upon which the Transfer Approvals are obtained.

## SECTION 7

### Conditions to Closing

7.1 Conditions to Obligations of NuVeda. The obligations of NuVeda to consummate any of the transactions contemplated in this Agreement shall be subject to the fulfillment or waiver, at or prior to the Closing (such date being referred to, respectively, as the "Closing Date" or "Closing"), of each of the following conditions:

- (a) The representations and warranties of CW and CWNV contained in this Agreement and any certificate or other writing delivered pursuant hereto shall be true and correct in all material respects on the Closing Date with the same effect as though made at and as of such date.
- (b) CWNV shall have obtained all required Transfer Approvals, including from the Division and, to the extent required, the Counties.
- (c) CW and CWNV shall have duly performed and complied with all agreements, covenants and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.
- (d) No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any material transaction contemplated hereby.
- (e) CWNV shall have delivered to NuVeda such other documents or instruments as NuVeda reasonably requests.

7.2 Conditions to Obligations of CW and CWNV. The obligations of CW and CWNV to consummate any of the transactions contemplated in this Agreement shall be subject to the fulfillment or waiver, at or prior to the Closing (such date being referred to, respectively, as the "Closing Date"), of each of the following conditions:

- (a) The representations and warranties of NuVeda contained in this Agreement and any certificate or other writing delivered pursuant hereto shall be true and correct in all material respects on the Closing Date with the same effect as though made at and as of such date.
- (b) CWNV shall have obtained all required Transfer Approvals, including from the Division and, to the extent required, the Counties.



(c) NuVeda shall have duly performed and complied with all agreements, covenants and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.

(d) No injunction or restraining order shall have been issued by any Governmental Authority, and be in effect, which restrains or prohibits any material transaction contemplated hereby.

(e) NuVeda shall have delivered to CW and CWNV such other documents or instruments as CW and CWNV reasonably request.

## SECTION 8

### Termination

8.1 **Termination Events.** The parties hereby agree that this Agreement may be terminated upon the earliest to occur of the following:

(a) The mutual written agreement of NuVeda and CWNV;

(b) By NuVeda upon the material breach by CW or CWNV of any covenant or agreement contained herein, provided that such breach is not cured within thirty (30) days of written notice by NuVeda that such a breach has occurred, or if such breach is not capable of cure within such thirty (30) day period, that CW and CWNV have taken action to commence a cure by such date and is diligently pursuing the same; or

(c) By CW or CWNV upon the material breach by NuVeda of any covenant or agreement contained herein, provided that such breach is not cured within thirty (30) days of written notice by CWNV that such a breach has occurred, or if such breach is not capable of cure within such thirty (30) day period, that NuVeda has taken action to commence a cure by such date and is diligently pursuing the same.

8.2 **CWNV Remedies for NuVeda Default.** Notwithstanding any other provision in this Agreement to the contrary, upon the occurrence of a material breach or default of this Agreement by, NuVeda, CW and/or CWNV shall be entitled to any and all rights and remedies in law or in equity including, but not limited to, return of all CW capital investments at a rate of 16% interest per annum should the NuVeda majority owners lose control of NuVeda to NuVeda minority owners.

8.3 **NuVeda Remedies for CW and CWNV Breach or Default.** Notwithstanding any other provision in this Agreement to the contrary, upon the occurrence of a material breach or default of this Agreement by CW and/or CWNV, NuVeda shall be entitled to any and all rights and remedies in law or in equity.

## SECTION 9

### OPERATIONS COMMENCING ON THE EFFECTIVE DATE

9.1 **CWNV Duties.** Commencing on the Effective Date, CWNV will develop, manage, operate and promote the facilities and shall be charged with the duties to protect the licenses and maximize profits and the overall value and goodwill of the facilities. The management of the facilities will include, but not necessarily be limited to, the following services absent any management fee paid to CWNV or its managers:

- a. Oversight and management of the day-to-day commercial operations of the facilities;
- b. Oversight and management of the development, interior design and construction of the facilities;
- c. Implementation, oversight and management of SOPs, aesthetics, and general practices consistent with the other facilities of CW and CWNV;
- d. Hiring and management of all facilities personnel and management of all HR matters;
- e. Procurement of all inventories, supplies and services;
- f. Identification, procurement, installation and operation of all operating systems (e.g., inventory management, POS, security, regulatory compliance, HR, etc.);
- g. Advertising, marketing, signage and promotion;
- h. Risk-mitigation, and oversight and management of third-party security and regulatory compliance companies;
- i. Consumer and product-preference tracking and analysis;
- j. Establishment and management of a customer loyalty and/or membership program;
- k. Development and management of a delivery service program;
- l. Development and implementation of an annual business plan and budget, which shall serve as the basis for mutually agreed-upon performance goals and targets;
- m. Reporting, and records management and retention;
- n. Procurement and management of insurance;
- o. General maintenance, upkeep, and improvement of the subject property, as applicable; and
- p. Oversight and management of any other responsibilities appurtenant to the successful operation of the facilities.
- q. The debt of NuVeda due and outstanding as of the Effective Date is not more than \$2,182,130.00. CW shall be responsible for resolving up to \$1,500,000.00 of this debt and the parties shall work together diligently to negotiate resolutions of this debt.

9.2 **CWNV Inventory Obligations.** CWNV shall be responsible for obtaining the inventories for Clark on a consignment basis with the same or similar inventories as that of CW's other dispensaries, and CWNV shall ensure that Clark has priority to receive all wholesale inventories on the same basis as any other wholesale purchaser. The wholesale price for all inventories shall be mutually agreed upon up by representatives of CWNV and NuVeda, subject to periodic adjustment as necessary. CWNV guarantees that the wholesale price paid by Clark shall never exceed the lowest price paid for the same or similar inventories as other CW dispensaries. Upon the retail sale of the

inventories by Clark, CWNV will be reimbursed for said inventories based on the agreed-upon wholesale pricing.

9.3 **Priority of Dispensaries.** CW, CWNV and NuVeda agree that the build-out of the facilities and dispensaries licensed to Clark is of paramount importance and shall be the first priority for CW and CWNV. CW and CWNV shall use their best efforts to fully stock the Clark dispensaries with its existing facilities and those scheduled to come online on or before May 3, 2016 and in accordance with the Timeline.

9.4 **Cultivation and Production Facilities.** CW, CWNV and NuVeda representatives shall discuss and develop in good faith a business plan for the timing and placement of the Nye cultivation and production licenses, with set milestones and in accordance with the Timeline.

9.5 **Building Insurance Claim.** NuVeda and Clark shall use their best efforts to pursue and resolve the building insurance claim relating to the Third Street dispensary. Any and all proceeds from the resolution of such claim shall be delivered to CWNV (or otherwise used solely to pay costs of the build-out of the Clark dispensaries).

## SECTION 10

### Definitions

For purposes of this Agreement, the following definitions shall apply:

"Action" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at law or in equity.

"Articles of Organization" shall mean the Articles of Organization of NuVeda, Clark and Nye, filed with the Nevada Secretary of State.

"Governmental Authority" means any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision.

"Law" or "Laws" means all laws, statutes, rules, regulations, ordinances and other pronouncements having the effect of law of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision or of any Governmental Authority, including all common laws.

## SECTION 11

### Miscellaneous

11.1 **Amendment.** Except as expressly provided herein, neither this Agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Agreement and signed by each party hereto.

11.2 **Notices.** All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail (with read receipt) or facsimile (with confirmation of delivery) during normal business hours of the recipient; if not, then on the next business day, (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the party to be notified at the address, facsimile or electronic mail address as set forth on the signature page of this Agreement, or at such other address or electronic mail address as such party may designate by advance written notice complying with this Section to the other parties hereto.

11.3 **Governing Law.** THIS AGREEMENT WILL BE DEEMED TO BE A CONTRACT MADE UNDER THE LAWS OF THE STATE OF NEVADA AND FOR ALL PURPOSES WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS PREVAILING IN THE STATE OF NEVADA, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

11.4 **Jury Trial.** EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING (WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO ANY OF THE AGREEMENTS.

11.5 **Jurisdiction.** The parties agree that any action brought by either party under or in relation to the Agreement, including, without limitation, to interpret or enforce any provision of the Agreement, shall be brought in, and each party agrees to and does hereby submit to the exclusive jurisdiction and venue of, the Eighth Judicial District Court located in Clark County, Nevada.

11.6 **Representation.** BY EXECUTING THIS AGREEMENT, EACH PARTY ACKNOWLEDGES THAT IT HAS HAD THE ABILITY AND OPPORTUNITY (WHETHER OR NOT TAKEN) TO SECURE THE ADVICE OF INDEPENDENT LEGAL COUNSEL OF ITS OWN CHOOSING WITH RESPECT TO THE ADVISABILITY OF EXECUTING AND ENTERING INTO THE AGREEMENTS AND THE LEGAL EFFECT OF ANY PROVISION OF THE AGREEMENTS. The parties hereto therefore stipulate and agree that the rule of construction to the effect that any ambiguities are to be or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor any party against another.

11.7 **Transaction Expenses.** Each party shall pay their own legal fees and other incidental expenses incurred in connection with transactions contemplated herein; provided, however,



(signatures follow)

*[Handwritten signature]* NUVEDA 052  
JACOBI 20

This Membership Interest Purchase Agreement is executed as of the date first written above.

NUVEDA LLC, a Nevada limited liability company

By: [Signature]  
Name: Pejman Bady *12/16/15*  
Its: President and Managing Member *Joseph. Kennedy*  
Address: P.O. Box 6255 *12/16/15*  
Richardson NV 89405  
Email: Pbady@me.com  
Facsimile: \_\_\_\_\_

CLARK NMSD LLC, a Nevada limited liability company

By: NUVEDA LLC, a Nevada limited liability company  
Its: Manager

By: [Signature]  
Name: Pejman Bady *12/16/15*  
Its: President Managing Member *Joseph. Kennedy*  
Address: P.O. Box 6255 *12/16/15*  
Richardson NV 89405  
Email: Pbady@me.com  
Facsimile: \_\_\_\_\_

NYE NATURAL MEDICINAL SOLUTIONS LLC, a Nevada limited liability company

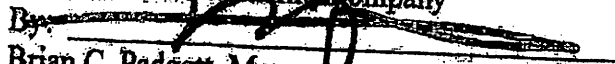
By: NUVEDA LLC, a Nevada limited liability company  
Its: Manager

By: [Signature] *12/16/15*  
Name: Pejman Bady *Joseph. Kennedy*  
Its: President Managing Member *12/16/15*  
Address: P.O. Box 6255 *12/16/15*  
Richardson NV 89405  
Email: Pbady@me.com  
Facsimile: \_\_\_\_\_

(Signatures continue on following page)

NUVEDA 0001341 1311

CWNEVADA, LLC,  
a Nevada limited liability company

By: 

Brian C. Padgett, Manager

Address: 611 S. 6TH ST.

LAS VEGAS, NV 89101

Email: BRIAN.PADGETT@CWNEVADA.COM

Facsimile: (702) 368-0123

CWNV, LLC, a to-be-formed Nevada limited  
liability company

By: 

Brian C. Padgett, Manager (upon formation)

Address: 611 S. 6TH ST.

LAS VEGAS, NV 89101

Email: BRIAN.PADGETT@CWNEVADA.COM

Facsimile: (702) 368-0123



Schedule 1

Tenant Improvements and Timeline

SEE TIMELINE IN OPERATING AGREEMENT  
AS SET FORTH IN "ADDITIONS TO  
OPERATING AGREEMENT" ATTACHED HERETO.

**Additions to Operating Agreement**

**Budget:** A budget of all operational expenses for the upcoming year will be presented to the Board for approval at the end of the prior year. Budget vs. actuals will be presented at each quarterly meeting of the Board to ensure that the company is operating within the annual budget approved by the Board. This will ensure that funds are being allocated and spent prudently.

**Marketing:** All of the dispensaries will be under The Green House umbrella, so a lot of the general marketing/branding costs can be shared (i.e website, social media, management staff) through a pro rata allocation between CW and CWNV. Individual advertising costs for each dispensary (directive billboards for example) will be borne by the company who owns the dispensary.

**Inventory Control:** Each CW and CWNV dispensary shall have access to equal stock and equal pricing (this is covered already in the agreement). This is only subject to shelf space constraints based on the size of the dispensary. For example: The 2,500 sf dispensary on 3<sup>rd</sup> St won't be able to carry every product the larger Blue Diamond dispensary will carry.

**Delivery:** Each dispensary gets credit for deliveries made within its municipality – regardless of which store makes the delivery.

**Disbursements:** Pete and Joe can work together to add standard language found in Operating Agreements covering profits, payment of debt, allocations for expansion and disbursement but payment to debt and expansion should consist of not less than 50% of net income.

**Timeline:** Dispensaries to be complete on or about April 16, 2016. The only caveat to this depends on the construction status/timing of the City of Las Vegas location which has been destroyed. Cultivation and production shall be up and running by the end of December 2016.

All licenses shall be safeguarded to meet the May 2016 State of Nevada compliance cut-off. If a CWNV license is lost due to being unable to meet the May 2016 compliance date then CW shall provide an extra license of the same type to CWNV at its cost and build to a similar standard as originally planned.

The first greenhouse built on CWNV Nye cultivation license shall be approximately 25,000/sf with a completion date of 12/2016. Construction shall commence thereafter on phase 2 (an additional approximate 25,000/sf) as determined by market demand.

**Lost Profits:** If Cultivation and Production are not up and running in earnest by the end of 2016, CW shall provide lost profits to CWNV based on the number of months the facilities are tardy in opening and based on the profits those facilities actually make for that same number of months upon opening.

12/6/15  
RM

12/6/15  
RSM

12/6/15  
24

NEVADA 000156  
12/16/15

Schedule 2

Debt

**NuVeda LLC Loans/Accounts Payable**

**NuVeda Loans Payable**

Name of Creditor	Agreement Date	NuVeda Signer	Term of Loan	Original Amount	Monthly Payment	Interest Rate	Amount Owning	NuVeda Notes	Total to be Paid	CW Notes
Gregory Daniel	05/15/15	Jennifer, Pej, Shane	36 Months	200,000	5,994.18	5%	188,012	need to pay	-	Note to pay down 4front Agreement. Was there an equity investment? Was 4front paid?
Majid Golpa	10/29/14	Pej	120 Months	600,000	6,074.70	4%	600,000	need to pay	-	Personal loan to Pej. Why wasn't this a NuVeda loan? How was money used?
							<b>788,012</b>			

**NuVeda Accounts Payable**

Name of Creditor	Agreement Date	NuVeda Signer	Term of Loan	Original Amount	Monthly Payment	Interest Rate	Amount Owning	NuVeda Notes	Total to be Paid	CW Notes
4front Advisors, LLC	06/13/14	Shane	120 Months	446,200			446,200	negotiate	-	What has been paid to date? How was the amount due calculated? Initiated? Was anyone hired? How was the amount due calculated? Contract to build 3rd St. location. Need a copy of contract to review.
FloraSearch	04/17/15	Shane					48,000	negotiate	-	Search agreement for cultivation manager. Was the search initiated? Was anyone hired? How was the amount due calculated? Contract to build 3rd St. location. Need a copy of contract to review.
TrinbyHeaven							18,857	negotiate	-	What is this agreement for? Was it ever signed? Did they do any work? Have they been paid anything?
TriQ		Unsigned					71,000	negotiate	-	Represented NuVeda in Greg Daniel and Peak Venture money raises. We need copies of invoices and a detail of what's been paid. Lobbying agreement. What has been paid to date? How was the amount due calculated?
Stevenson Law Firm	07/21/15	Pej					55,000	negotiate	-	Hired as Director of Operations for \$130K/year. What is the status of his employment? What has he been paid to date?
GC Garcia							251,125	negotiate	-	3rd St lease. What has been paid to date?
Wells Littlefield	12/18/14	Shane					90,000	employee	-	N. Las Vegas Lease. What has been paid to date?
1320 S 3rd Street - Rent	02/24/15	Shane					67,500	need to pay to close litigation	-	Marketing Consulting Agreement. \$24k total -- \$4k/month. What has been paid? Was any work completed?
2113 N Las Vegas Blvd - Rent	04/01/15	Shane					172,000	need to pay to close litigation	-	PR Contract. \$12k/month. What has been paid? Has any work been completed?
Growdr Farm	08/05/15	Shane	6 months				4,000	negotiate	-	Security Implementation Plan. Was there an agreement signed? Has any work been done? What was paid and what is the balance due?
FarmPR	09/15/15	Wells					12,000	negotiate	-	
TWG							158,336	buyout/exit/negotiate	-	
							<b>1,394,118</b>			

12/6/15  
 Jim  
 12/6/15  
 12/6/15

# **Exhibit G**

**Form 204**

Fill in this information to identify the case:

Debtor name CW Nevada LLC  
 United States Bankruptcy Court for the: \_\_\_\_\_ District of Nevada  
(State)  
 Case number (if known): \_\_\_\_\_

Check if this is an amended filing

Official Form 204

**Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders**

12/15

A list of creditors holding the 20 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person or entity who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 20 largest unsecured claims.

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1	Department of Taxation 555 E Washington Ave Suite 1300 Las Vegas, NV 89101		Taxes				\$388,890.45
2	Internal Revenue Service Centralized Insolvency Oper PO Box 21126 Philadelphia, PA 16114-0326		Taxes				Unknown
3	Renaissance Blue Diamond LLC 1245 N Boulder Highway Henderson, NV 89011						\$99,105.10
4	Unknown Claimants c/o Luh & Assoc 8987 W Flamingo Road, Ste 100 Las Vegas, NV 89147						Unknown
5	Dream Steam LLC c/o Barret & Matura PC 8925 East Pima Center Pkwy Ste 100 Scottsdale, AZ 85258		Contract Dispute				Unknown
6	Jennifer Goldstein 8913 Briar Bay Drive Las Vegas, Nevada 89131						Unknown
7	MC Brands LLC c/o McDonald Carano LP 2300 W Wahara Ave, Ste 1200 Las Vegas, NV 89131						Unknown
8	NuVeda LLC c/o Wiley Petersen 1050 Indigo Drive, Ste 130 Las Vegas, NV 89145						Unknown

Debtor CW Nevada LLC  
Name

Case number (if known) \_\_\_\_\_

	Name of creditor and complete mailing address, including zip code	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim		
					Total claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
9	The Cima Group c/o Humphrey Law PLLC 140 W Liberty Street, Ste 210 Reno, NV 89503						Unknown
10	Backus Carranza & Burden 3050 South Durango Drive Las Vegas, NV 89117						Unknown
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							

# **Exhibit H**

## **List of Creditors**



Label Matrix for local noticing

0978-2

Case 19-12300-mkn

District of Nevada

Las Vegas

Thu Mar 5 23:25:17 PST 2020

ALI BABA, LLC

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1731 VILLAGE CTR CR

LAS VEGAS, NV 89134-0516

FORTRESS OAKRIDGE, LLC

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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

INTERNAL REVENUE SERVICE  
CENTRAL INSOLVENCY OPERATIONS  
P.O. BOX 21126  
PHILADELPHIA PA 19114-0326

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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(u)MI-CW HOLDINGS LLC

(u)MI-CW HOLDINGS NV FUND 2 LLC

(u)RENAISSANCE BLUE DIAMOND LLC

(d)CWNEVADA LLC  
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(d)DREAM STEAM LLC  
BARRETT & MATURA PC  
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(u)Fortress Ali Baba, LLC

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(u)NEVADA DEPARTMENT OF TAXATION 1550 COLLEGE

(u)NUVEDA LLC  
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(u)UNITED STATES TRUSTEE  
300 LAS VEGAS BLVD SOUTH #4300 LAS

(u)UNKNOWN CLAIMANTS  
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End of Label Matrix  
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# EXHIBIT D

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8 *Attorneys for State of Nevada,*  
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9

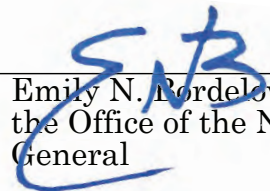
10 **UNITED STATES BANKRUPTCY COURT**  
11 **DISTRICT OF NEVADA**

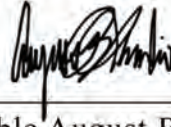
12 In re: BK-22-11249-abl  
Chapter 11 (Subchapter V)  
13  
14 NUVEDA, LLC, a Nevada limited  
liability company,  
15 \_\_\_\_\_ Debtor(s).

16 **NOTICE OF ENTRY OF ORDER**

17  
18 PLEASE TAKE NOTICE that an ORDER granting the Stipulation By STATE  
19 OF NEVADA, EX REL. CANNABIS COMPLIANCE BOARD and Between  
20 MITCHELL D. STIPP on behalf of NUVEDA, LLC, A NEVADA LIMITED  
21 LIABILITY COMPANY Filed by EMILY NAVASCA BORDELOVE on behalf of  
22 STATE OF NEVADA, EX REL. CANNABIS COMPLIANCE BOARD was filed in  
23 this matter on August 26, 2022, a copy of which is attached hereto.

24 DATED this 26th of August, 2022.

25 By:   
26 Emily N. Bordelove an employee of  
the Office of the Nevada Attorney  
27 General  
28



Honorable August B. Landis  
United States Bankruptcy Judge



Entered on Docket  
August 26, 2022

AARON D. FORD  
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*Attorneys for State of Nevada,  
ex rel. Cannabis Compliance Board &  
the Department of Taxation*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re: BK-22-11249-abl  
Chapter 11 (Subchapter V)

NUVEDA, LLC, a Nevada limited  
liability company,

Debtor(s)

**ORDER APPROVING STIPULATION BY AND AMONG DEBTOR, THE  
CANNABIS COMPLIANCE BOARD, AND THE DEPARTMENT OF  
TAXATION**

The Court, having considered the Stipulation by and among Debtor, the State of Nevada, *ex rel.* the Cannabis Compliance Board (“CCB”) and the Department of Taxation (“DOT”), attached hereto as **Exhibit 1**, and good cause appearing:

///

1 IT IS HEREBY ORDERED that the Stipulation is APPROVED as follows:

2 1. That 11 U.S.C. § 362(a)'s automatic stay in this matter does not apply to any  
3 action or proceeding instituted or maintained by the State of Nevada, *ex rel.* Cannabis  
4 Compliance Board or the Department of Taxation involving the Debtor, Clark NMSD,  
5 LLC ("Clark NMSD"), or Nye Natural Medicinal Solutions, LLC ("Nye Natural").

6 2. Upon entry by the United States Bankruptcy Judge of this Order approving  
7 said Stipulation, the CCB's Joinder to the Motion to Dismiss [dkt. 92] and Motion for  
8 Declaratory Relief [dkt. 96] shall be deemed withdrawn.

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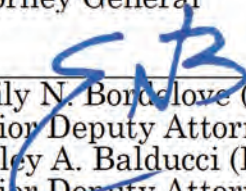
1 Further, upon entry by the United States Bankruptcy Judge of this Order approving  
2 said Stipulation, the CCB and the DOT will not file an opposition in this case to the  
3 Debtor's position that Debtor does not own any interest in any cannabis  
4 establishments including, without, limitation, Clark NMSD and Nye Natural.  
5 However, the CCB reserves all rights and remedies to take any action regarding any  
6 transfers concerning the Debtor's interest in Clark NMSD and Nye Natural that  
7 violated Nevada laws and regulations which governed the same. Similarly, the DOT  
8 reserves all rights and remedies to take any action regarding any tax liabilities within  
9 the DOT's jurisdiction and collection of the same from any and all persons liable  
10 including, but not limited to, responsible persons pursuant to NRS 360.297 and  
11 successors pursuant to NRS 360.525.

12  
13 IT IS SO ORDERED.

14  
15 Respectfully submitted:

16 DATED this 23rd day of August, 2022

17 AARON D. FORD  
18 Attorney General

19   
Emily N. Bortolove (Bar No. 13202)  
Senior Deputy Attorney General  
20 Ashley A. Balducci (Bar No. 12687)  
Senior Deputy Attorney General

21 *Attorneys for State of Nevada, ex rel.*  
22 *Cannabis Compliance Board and*  
23 *Department of Taxation.*  
24  
25  
26  
27  
28



EXHIBIT “1”

EXHIBIT “1”

1 AARON D. FORD  
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2 Ashley A. Balducci (Bar No. 12687)  
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8 *Attorneys for State of Nevada,*  
*ex rel. Cannabis Compliance Board &*  
9 *the Department of Taxation*

10 **UNITED STATES BANKRUPTCY COURT**  
11 **DISTRICT OF NEVADA**

12 In re:

BK-22-11249-abl  
Chapter 11 (Subchapter V)

13  
14 NUVEDA, LLC, a Nevada limited  
liability company,

15 Debtor(s)

16 **STIPULATION BY AND AMONG DEBTOR, THE CANNABIS COMPLIANCE**  
17 **BOARD, AND THE DEPARTMENT OF TAXATION**

18 This stipulation (“Stipulation”) is made by and between debtor NuVeda LLC  
19 (“Debtor”), by and through its counsel, Mitchell Stipp, Esq. and Nathan A. Schultz  
20 Esq., and the State of Nevada, *ex rel.* the Cannabis Compliance Board (“CCB”) and  
21 the Department of Taxation (“DOT”), by and through their counsel of record, Attorney  
22 General Aaron D. Ford, Senior Deputy Attorney General Emily N. Bordelove, Senior  
23 Deputy Attorney General Ashley A. Balducci, and is predicated upon the following:

24 1. The CCB is the regulatory body over cannabis establishments and cannabis  
25 establishment agents in the State of Nevada.

26 2. The DOT regulates, imposes, and collects taxes for doing business in the  
27 State of Nevada.

28 3. Debtor filed its petition for bankruptcy on or about April 11, 2022. This

1 petition enacted an automatic stay of “the commencement or continuation, including  
2 ... other action or proceeding against the debtor that was or could have been  
3 commenced before the commencement of the case under this title, or to recover a  
4 claim against the debtor that arose before the commencement of the case under this  
5 title.” 11 USC § 362 (a)(1).

6 4. The CCB and the DOT seek to maintain their regulatory authority over  
7 cannabis establishments and cannabis establishment agents in the State of Nevada.

8 5. 11 USC § 362(b)(4) provides exceptions to the automatic stay under  
9 subsection (a) in pertinent part:

10 (b) The filing of a petition under section 301, 302, or 303 of this title, or  
11 of an application under section 5(a)(3) of the Securities Investor  
Protection Act of 1970, does not operate as a stay—

12 ...

13 (4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of  
14 the commencement or continuation of an action or proceeding by a  
15 governmental unit ... to enforce such governmental unit's or  
organization's police and regulatory power, including the enforcement of  
a judgment other than a money judgment, obtained in an action or  
proceeding by the governmental unit to enforce such governmental  
unit's or organization's police or regulatory power;

16 6. The CCB agrees that, by entering into this Stipulation and upon entry by the  
17 United States Bankruptcy Judge of the associated Order approving this Stipulation,  
18 the CCB's Joinder to the Motion to Dismiss [dkt. 92] and Motion for Declaratory  
19 Relief [dkt. 96] shall be deemed withdrawn.

20 7. Further, the CCB and the DOT stipulate and agree that, upon entry by the  
21 United States Bankruptcy Judge of the associated Order approving this Stipulation,  
22 neither will file an opposition in this case to the Debtor's position that Debtor does  
23 not own any interest in any cannabis establishments including, without, limitation,  
24 Clark NMSD, LLC (“Clark NMSD”) and Nye Natural Medicinal Solutions, LLC (“Nye  
25 Natural”). However, the CCB reserves all rights and remedies to take any action  
26 regarding any transfers which violated Nevada laws and regulations which governed  
27 the same. Similarly, the DOT reserves all rights and remedies to take any action  
28 regarding any tax liabilities within the DOT's jurisdiction and collection of the same

1 from any and all persons liable including, but not limited to, responsible persons  
2 pursuant to NRS 360.297 and successors pursuant to NRS 360.525.

3 **NOW, THEREFORE**, Debtor, the CCB, and the DOT stipulate as follows:

4 1. Debtor, the CCB, and the DOT have met, conferred, and agreed to stipulate  
5 that 11 U.S.C. § 362(a)'s automatic stay in this matter does not apply to any action  
6 or proceeding instituted or maintained by the State of Nevada, *ex rel.* Cannabis  
7 Compliance Board or the Department of Taxation involving the Debtor, Clark NMSD,  
8 or Nye Natural.

9 2. Upon entry by the United States Bankruptcy Judge of the associated Order  
10 approving this Stipulation, the CCB's Joinder to the Motion to Dismiss [dkt. 92] and  
11 Motion for Declaratory Relief [dkt. 96] shall be deemed withdrawn.

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