

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

FRANCISCO SILVA, AN
INDIVIDUAL,

Appellant,

vs.

ED CLAY, AN INDIVIDUAL;
SCOTT NELSON, AN
INDIVIDUAL; DEDDRICK
PERRY, AN INDIVIDUAL; AND
CPI MANAGEMENT GROUP,
LLC,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 90651

District Court: A-25-909767-B

APPEAL

**From the Eighth Judicial District Court
The Honorable Maria A. Gall**

**APPELLANT'S APPENDIX VOLUME 1
PART 3**

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1 upon and misleadingly characterize the court’s statement in *Havasupai*, that the tribe’s claim “is
2 quantifiable by a jury.”⁸⁸ Instead, the court noted that the claim “is necessarily subjective, deeply
3 personal and may not be quantifiable *except* by a jury.”⁸⁹ As the court implied, *all* injuries are
4 quantifiable by juries. Assigning value to an otherwise irreparable or otherwise incalculable injury
5 is one of the core functions of a jury.

6 **Second**, Defendants’ argument that Mr. Silva cannot assert the privacy interests of his
7 children also lacks merit. For starters, Mr. Silva does not need to assert his children’s privacy
8 interests because the cells are his, both genetically and legally. Further, it should not be surprising
9 that Mr. Silva has not found any case where the defendants stole stem cells from a parent who
10 revoked consent to use the cells from his children’s biological material. Given the rarity of these
11 circumstances, the Court should apply the policy that Nevada has adopted requiring parental
12 consent in order for minors to donate blood⁹⁰ or posthumous body parts.⁹¹ “Far more precious than
13 property rights, parental rights have been deemed to be among those essential to the orderly pursuit
14 of happiness by men.”⁹² Defendants do not cite any authority for rejecting Mr. Silva’s well-
15 established privacy interest.⁹³

16 **Third**, Defendants misapprehend the nature of the financial harm that Defendants’
17 continued conversion of Mr. Silva’s stem cells will cause. Time is of the essence because other
18 companies are closing the scientific gap between their methods and Mr. Silva’s.⁹⁴ The measurement
19 of damages is just one component of irreparable harm; although the lost value of a specific licensing
20 agreement is quantifiable, the window for Mr. Silva to offer an exclusive treatment closes with each
21

22 ⁸⁸ Opp. at 23:1.

23 ⁸⁹ *Havasupai Tribe of Havasupai Rsrv. v. Ariz. Bd. of Regents*, 204 P.3d 1063, 1076 (Ariz. Ct. App. 2008) (emphasis added).

24 ⁹⁰ NRS 460.040(1).

25 ⁹¹ NRS 451.556(3).

26 ⁹² *Jocelyn P. v. Joshua P.*, 250 A.3d 373, 392 (Md. Ct. Spec. App. 2021) (cleaned up) (considering
27 embryo donation); *see also Am. Academy of Pediatrics v. Lungren*, 940 P.2d 797, 800–01 (Cal.
28 1997) (“At common law, minors generally were considered to lack the legal capacity to give valid
consent to medical treatment or services, and consequently a parent . . . or other legally authorized
person generally was required to provide the requisite consent . . . The requirement that medical
care be provided to a minor only with the consent of the minor’s parent or guardian remains the
general rule, both in California and throughout the United States.”).

⁹³ *See* Opp. at 21:18–23:20.

⁹⁴ App. at 13:20-27.

1 passing day.⁹⁵ Courts have found that a lost opportunity to compete qualifies as irreparable harm.⁹⁶
2 Also, “[e]vidence of lost business opportunities can be sufficient to show irreparable harm.”⁹⁷ And
3 “[t]he best case for obtaining a permanent injunction often occurs when the plaintiff and defendant
4 are competing in the same market[.]”⁹⁸ as Defendants and Mr. Silva will once Defendants stop
5 converting his cells and Processes. While the economic harms to Mr. Silva pale in comparison to
6 his privacy and biological interests in his children’s stem cells, each independently establishes a
7 basis for irreparable harm.

8 **G. The balance of hardships tips sharply in Mr. Silva’s favor.**

9 Mr. Silva has detailed the hardships he suffers from being deprived of his property and
10 privacy rights.⁹⁹ While Defendants commit conversion, rather than copyright infringement, “lost
11 profits from an activity which has been shown likely to be infringing . . . merit[] little equitable
12 consideration” in the preliminary injunction analysis.¹⁰⁰

13 Furthermore, Defendants assure the Court that they have “easy access” to replacement cells
14 “at little to no cost”¹⁰¹ and claim their process “materially differs” from Mr. Silva’s and was not
15 created by him.¹⁰² Accordingly, ceasing to use Mr. Silva’s cells and Processes cannot impose any
16 hardship on Defendants.

17 **H. An injunction promotes the public interest.**

18 As discussed, Mr. Silva’s rights over his stem cell line, derived from his children’s umbilical
19 cords, are privacy interests. “The public has an interest in protecting the privacy rights of its
20 citizens.”¹⁰³ Although Defendants argue Mr. Silva’s contention is “erroneous” that the public has
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23 ⁹⁵ Second Silva Decl., ¶ 11.

24 ⁹⁶ *See, e.g., Google, Inc. v. United States*, 95 Fed. Cl. 661, 679 (2011).

25 ⁹⁷ *ELT Sight, Inc. v. EyeLight, Inc.*, No. 19-CV-05545-JAK-RAO, 2020 WL 7862134, at *28 (C.D.
Cal. Aug. 28, 2020).

26 ⁹⁸ *SynQor, Inc v. Artesyn Techs., Inc.*, No. 07-CV-497-TJW-CE, 2011 WL 238645, at *3 (E.D.
Tex. Jan. 24, 2011).

27 ⁹⁹ App. at 14.

28 ¹⁰⁰ *Triad Sys. Corp. v. Se. Express Co.*, 64 F.3d 1330, 1338 (9th Cir. 1995).

¹⁰¹ Opp. at 6:28–7:1; *Id.* at Ex. A, 5:2–3.

¹⁰² *Id.* at 20:10, 15–16.

¹⁰³ *Wolfson v. Lewis*, 924 F. Supp. 1413, 1435 (E.D. Penn. 1996).

1 an interest in ensuring privacy rights remain respected,¹⁰⁴ there is a “strong public interest in
2 litigation concerning individuals’ right to privacy.”¹⁰⁵

3 By contrast, Defendants offer an elective, non-standard treatment that must be performed
4 in Mexico. Their argument that the public has any interest in specialized medical care¹⁰⁶ presumes
5 the efficacy of a technique that has yet to be clinically demonstrated in the United States. Further,
6 “[t]he public interest is seldom found to be on the side of the unrestrained commission of tort.”¹⁰⁷
7 The public interest favors protecting Mr. Silva’s privacy rights over sustaining a business that relies
8 upon exploitation of an unwilling participant’s stem cells. Accordingly, the public interest weighs
9 decisively in favor of granting the Application.

10 I. The Bond Should Be Nominal

11 The purpose of the bond is to “pay the costs and damages sustained by any party found to
12 have been wrongfully enjoined or restrained.”¹⁰⁸ Further, “the bond amount may be zero if there is
13 no evidence that the [enjoined] party will suffer damages from the injunction.”¹⁰⁹ Here, those costs
14 and damages are very low and perhaps zero. First, it is virtually certain that Mr. Silva will succeed
15 in his conversion claim against Defendants. Second, Defendants assure the Court that they have
16 “easy access” to replacement cells “at little to no cost”¹¹⁰ and claim their process “materially
17 differs” from Mr. Silva’s and was not created by him.¹¹¹ Accordingly, being enjoined from using
18 Mr. Silva’s cells and Processes will cause no disruption and virtually no cost.

19 In addition, Defendants’ purported risk analysis falls apart upon inspection. Defendants
20 claim that they will lose \$7,000,000 in value from Mr. Silva’s stem cells expiring.¹¹² But as a matter
21 of law those cells cannot belong to Defendants. Defendants also claim that they will lose the
22 revenue they could have generated from Mr. Silva’s cells.¹¹³ But again, those cells do not belong

24 ¹⁰⁴ Opp. at 24:12–14.

25 ¹⁰⁵ *Michaels v. Internet Entm’t Grp., Inc.*, 5 F. Supp. 2d 823, 842 (C.D. Cal. 1998).

26 ¹⁰⁶ See Opp. at 24:17–18.

27 ¹⁰⁷ Restatement (Second) of Torts § 936, cmt. to subsection 1.

28 ¹⁰⁸ NRCF 65(c).

¹⁰⁹ *Conn. Gen. Life Ins. Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th Cir. 2003).

¹¹⁰ Opp. at 6:27–7:1; *id.* at Ex. A, 5:2–3.

¹¹¹ *Id.* at 20:10, 20:15–16.

¹¹² *Id.*, Ex. A at ¶ 27.

¹¹³ *Id.* at ¶ 26.

1 to Defendants as a matter of law. Finally, Defendants argue that CPI would have to furlough its
2 employees and pay just over \$1 million USD (\$24.79 million pesos) in severance pay.¹¹⁴ But that
3 contradicts Defendants’ assertions that (i) they have “eas[y] access” to replacement cells “at little
4 to no cost,”¹¹⁵ and (ii) their process “materially differs” from Mr. Silva’s and was not created by
5 him.¹¹⁶ Accordingly, if Defendants have to swap cell lines to comply with this Court’s injunction
6 no furlough will be needed, and there would be no need to change their processes.

7 **V. CONCLUSION**

8 For all of the above reasons, the Court should grant Mr. Silva injunctive relief and require
9 only a nominal bond.

10 Dated: April 8, 2025

SNELL & WILMER L.L.P.

/s/ V.R. Bohman
V.R. Bohman, Esq.
Xyzlo Lee, Esq.
1700 South Pavilion Center Drive, Suite 700
Las Vegas, Nevada 89135

Attorneys for Plaintiff Francisco Silva

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¹¹⁴ *Id.* at ¶ 28.
¹¹⁵ *Id.* at 6:28–7:1; *id.* at Ex. A, 5:2–3.
¹¹⁶ *Id.* at 20:10, fex15–16.

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18)
3 years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a
4 true and correct copy of the foregoing **REPLY IN SUPPORT OF PLAINTIFF'S**
5 **APPLICATION FOR PRELIMINARY INJUNCTION** by method indicated below:

- 6 **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage
7 thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth
8 below.
- 9 **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic
10 filing and service upon the Court's Service List for the above-referenced case.
- 11 **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of
the individual(s) listed below.

12 and addressed to the following:

13 Jeffery A. Bendavid, Esq.
14 Jacqueline Vokoun, Esq.
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*Attorneys for CPI Management Group, LLC,
and Defendants Clay, Nelson, and Perry*

26 DATED this 8th day of April, 2025

27 /s/ Lyndsey Mosbey

28 An employee of SNELL & WILMER L.L.P.

EXHIBIT 1

From: Susan McCain <susan.mccain@thetamcenter.com>
Sent: Wednesday, February 19, 2025 7:06 PM
To: Wurster, April
Subject: Material Purchase and License Agreement

[EXTERNAL] susan.mccain@thetamcenter.com

April,

I recently started with CPI and the TAM Center to oversee all IP matters. I would like to schedule time this week to discuss the IP assets which are to be included in that agreement with Mr. Silva and the ownership lineage thereof. Would you have time tomorrow or Friday for a quick call? Thanks for your attention to this matter.

Sue

--

Susan McCain
Head of Intellectual Property
The TAM Center
email: susan.mccain@thetamcenter.com
mobile: 858-754-7419

EXHIBIT 2

----- Forwarded message -----

From: **Francisco Silva** <fj74582@gmail.com>

Date: Mon, Jul 12, 2021 at 8:24 AM

Subject: Re: Actualización- Stem Cell Lab

To: Patricia Juarez <pjuarez@cicese.mx>

Cc: <gerardo.aguirre@chipsahospital.org>, Ana Luisa Flores <ana.flores@chipsahospital.org>, <patricia.juarez@chipsahospital.org>, Deddrick Perry <deddrick.allen.perry@unitedcancercenters.com>

Patricia,

Bueno dias, me alegro que pudieron visitar el laboratorio y ver como hemos avanzado. Adjunto estan unos de los primeros protocolos para cultivar y crear un master cell bank of umbilical cord derived stem cells. Dentro de los protocols estan los insumos y reactivos que se usan para el cultivo.

Te parece que tengamos un google doc folder para todo; “draft folder” - revision folder final approval folder, approved folder, etc....?

Gracias,

FS

On Jul 11, 2021, at 7:58 PM, Patricia Juarez <pjuarez@cicese.mx> wrote:

Hola Francisco,

Espero te encuentres bien, y estés teniendo un buen fin de semana.

Aquí mi update para contarte cómo nos fue la semana pasada y en qué estamos trabajando ahora.

> Visitamos las instalaciones el miércoles pasado, Claudia y Benjamin nos dieron tour por el lab, y nos pusieron al día sobre los avances en los equipos. Me quedé sorprendida, realmente les quedó bastante bien. Los espacios se ven bien definidos, funcionales y me agradó mucho.

> Visitamos también el hospital, firmamos contratos, y Ana se encargó de darnos una calurosa bienvenida presentándonos al personal de las diferentes áreas. Esta parte me gustó mucho, porque el conocer al usuario final, siempre pone sentido al porqué estamos haciendo investigación. Además conocer a todas las áreas nos hizo sentir parte del equipo.

> Gerardo y yo quedamos en el siguiente plan, acorde a las etapas que tu nos marcaste:

1. Realizar inventario del equipo actual del laboratorio. Integrar archivos físicos y virtuales, en donde tengamos a) manual de usuario, b) hoja de mantenimiento.
2. Desarrollar manual de procedimientos del laboratorio, en donde quede estipulado el correcto acceso a cada una de las áreas, procedimientos de descontaminación, uso, etc.
3. Implementar bitácoras de uso y poner junto a cada equipo, con dos objetivos: a) uso correcto, seguimiento y mantenimiento del equipo. b) certificación del lab a mediano-corto plazo.
4. Junto con Claudia, investigar y poner a punto la información que requerimos para avanzar en la certificación del lab.
5. Hacer una lista del equipo necesario para complementar el laboratorio, incluyendo área de cultivo y área experimental del laboratorio. Considerando en un futuro poder realizar además de cultivo, experimentos de biología molecular y bioquímica.
6. Hacer una lista de material y reactivos necesarios para el cuarto de cultivo, y básicos del área experimental, incluyendo proveedores. Después de tu aprobación, registrar en Quarzy.

Estaremos trabajando en estos puntos, también requerimos nos envíes por favor los protocolos, para tomar en cuenta los materiales y reactivos que necesitamos pedir.

Saludos,
Patricia

Dra. Patricia Juárez Camacho
Investigadora Titular B
Coordinadora del Posgrado en Ciencias de la Vida
Laboratorio de cáncer y enfermedades óseas
Departamento de Innovación Biomédica
Centro de Investigación Científica
y de Educación Superior de Ensenada
CICESE
Tel: (646) 175-0500 ext 27212
Ensenada, Baja California

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Francisco Silva

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Francisco Silva

EXHIBIT 3

11:55



< 129



+1 (939) 969-8534

Ok

Feb 2, 2021 at 4:37 PM

Hi Francesco, sorry been a slammed day. Just got out of my last meeting. We have a disc injection tomorrow with fluoroscopy and wanted to know if anything special should be done.

Also, our joint injections are tomorrow as well. Is lidocaine ok to mix? I've heard people say somethings don't mix well with agency cells

What time are the injections

Lidocaine isn't good with cells

I just canceled the disc injections as we (BOD) didn't approve and they jumped the gun a bit. Thankfully it's a friend so she's fine with waiting.

The joint injections are starting at 9am in morning. What do you suggest instead of lidocaine



Text Message - SMS



AA203



AA204

6:23



< 134



4 Amigos

Dedrick Perry

Francisco some questions as we buy materials:

1. Does the first gowning area have any special requirements: size, materials (drywall or glass)?
2. Likewise, does transitional area from cell culture room to quality testing area have any special requirements for size and materials?
3. Does the quality testing area need any special requirements: walls? Ventilation?

DP

👍
In a meeting will reply after

Mar 5, 2021 at 8:46 AM

First gowning area doors need to be non translucent since people will be changing in there airflow should push out of the room

Transition area door into the



(Message)



AA205

10:18



< 130



3 People

Ok. No worries Im on it

Jando Fahme

Es todo 😎 ty!!

JF

"Francisco's finest cells" TM

Lol. Love the shirts Scotty got us

Jando Fahme

JF

Yes indeed haha. I saw em 🤔

May 9, 2022 at 2:44 PM

Detailed Tracking

fedex.com



600 million MSCs for Pizano

Jando Fahme

JF

Got it. Thanks I sent to Homero

Gracias

May 10, 2022 at 12:17 PM

Jando buenos días . Lab sent me email saying package was delivered.

Jando Fahme



Text Message - SMS



AA206

10:18



< 130



3 People

Jando Fahme

Your stuff is goin like hotcakes amigo!! 🍪 🍪 🔥

Longest lead time is VG Lead time is about 3-4 weeks MSCs about 1-2 weeks

Jun 7, 2022 at 4:48 PM

Jando Fahme

👍 ok. We still have plenty of VG donuts why I put a pause on it a few weeks back. Around 100 doses right now

In this first shipment that you sent above, is gcmf included ?

Yes

Jando Fahme

Great! Thnx a ton

Gc is always included in production and shipping schedule

We are at 500 vials a. Week

Jando Fahme

I just wanted to clarify since you mentioned there were 2 concrete



Text Message - SMS



AA207

12:01



< 129



+1 (939) 969-8534

Sounds good thanks!

How did everything work out with ur mom and dad?

Thanks 🙏 My parents feel great!! They are back in KY now and just arrived yesterday. My dad felt he could breath better the next day... really amazing

Awesome glad to hear tell them I'm happy they feel good!

I will! Thanks for everything Francisco 🙏 This wouldn't happen without you and I'm grateful 🙏

All team all team!



Aug 31, 2022 at 6:15 PM

Hola Francisco, did you happen to send any exosomes in this last shipment?



Text Message - SMS



AA208

12:00



< 129



+1 (939) 969-8534

Aug 24, 2022 at 1:08 PM

Hola Francisco, do you happen to have any exosomes in stock that I could use? I'm wanting to get a RF procedure done on my face and wanted to immediately put exosomes and stem cells injected.

Hey Ed. Yes I have some

Ok great. I'm going to see when I can schedule this procedure. I need to figure out the timing of when to use the cells and exosomes. Might do right after or the day after.

Ok cool let me know I have another shipment of reagents coming up so I can ship frozen exosomes

👍 thank you!!

Aug 25, 2022 at 5:45 PM

Hola Francisco, this guy reached out to talk with us. Do you know the CEO



Text Message - SMS



AA209

EXHIBIT 4

OPERATING AGREEMENT
OF
CPI MANAGEMENT GROUP, LLC

This OPERATING AGREEMENT (“Agreement”) is made effective the 29th day of June, 2021, by and among EDWARD CLAY, FRANCISCO SILVA, SCOTT NELSON, and DEDDRICK PERRY (collectively referred to as “Members” and individually as “Member”) and CPI MANAGEMENT GROUP, LLC (“Company”).

WITNESSETH:

WHEREAS, the Company has been formed as a limited liability company under Nevada law for the purposes hereinafter set forth; and

WHEREAS, the Members desire to set forth their respective rights, duties, and responsibilities with respect to such limited liability company and wish to adopt this Operating Agreement of the Company.

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each of the Members, the Members, intending to be and being legally bound, agree as follows:

ARTICLE I
Definitions

1.1 Definitions. Whenever used in this Agreement, or any amendment hereof, the following terms shall have the meanings set forth below:

- (a) **“Act”** means the Nevada Revised Limited Liability Company Act, as amended, and any corresponding provisions of future laws.
- (b) **“Agreement”** means this Operating Agreement, together with any amendments hereto.
- (c) **“Appraised Value”** shall have the meaning set forth in Section 11.3.
- (d) **“Articles of Organization”** means the CPI MANAGEMENT GROUP, LLC Articles of Organization filed with the Nevada Secretary of State by which the Company was organized as a Nevada limited liability company pursuant to the Act, together with any amendments thereto.
- (e) **“Capital Account”** means the account established and maintained for each Member on the books of the Company pursuant to Articles VII and VIII hereof.
- (f) **“Capital Contribution” or “Contribution to Capital”** means the amount of cash and Gross Asset Value (at the time of the contribution) of any property contributed to

the Company by or on behalf of a Member.

(g) **“Ceased Member”** a Member that triggers an event defined in Article X.

(h) **“Cessation”** means only the action of a Member deemed to be a Cessation by the Member pursuant to Article X, and shall not have the meaning given it in the Act.

(i) **“Code”** means the Internal Revenue Code of 1986, as amended, and any corresponding provisions of future laws.

(j) **“Company”** means CPI MANAGEMENT GROUP, LLC.

(k) **“Company Liability”** means any enforceable debt or obligation for which the Company is liable or which is secured by any Company Property.

(l) **“Company Property”** means any and all property, real, personal, tangible and intangible, either contributed by a Member as capital, transferred to, or otherwise acquired by the Company.

(m) **“Control” or “Controlled”** means with respect to any legal entity, the actual or constructive ownership of more than fifty percent (50%) of all the voting rights in the entity, determined using the constructive ownership rules under Section 318 of the Code, regardless of whether the legal entity in question is a corporation or other legal entity.

(n) **“Disinterested”** means with respect to any Member, a Member who (1) is not a party to a particular transaction or other undertaking, (2) has no material financial interest in any organization that is a party to that undertaking, and (3) is not a Family member of any Person who is either a party to that undertaking or has a material financial interest in any organization that is a party to that undertaking.

(o) **“Fair Market Value”** shall have the meaning set forth in Section 11.3.

(p) **“Family”** means (1) the spouse of any Member as of the initial effective date of this Agreement or any subsequent spouse, unless the Member and spouse become separated or a petition or complaint for divorce is filed, in which case such spouse shall not qualify as Family for purposes of this Agreement; (2) the lineal descendants and ancestors of an individual Member; (3) any estate, trust, guardianship, custodianship, or other fiduciary arrangement for the benefit of any one or more of the individuals described in (1) or (2) above; and (4) any corporation, partnership, limited partnership, limited liability limited partnership, limited liability company, or other business organization Controlled by any one or more individuals or entities described in (1), (2), or (3) above.

(q) **“Financial Rights”** means the right to share in the Profits and Losses of the Company and the right to share in distributions as set forth on Exhibit A.

(r) **“Gain”** means the taxable income or gain for Federal income tax purposes from the Sale of the Company Property.

(s) **“Gross Asset Value”** means, with respect to any asset, the asset’s adjusted basis for federal income tax purposes, except as follows:

(1) The initial Gross Asset Values of any asset contributed by a Member to

the Company shall be the gross fair market value of such asset, as determined by the contributing Member and the Company;

(2) The Gross Asset Values of all Company assets may be adjusted at the discretion of the Members to equal their respective gross fair market values, as determined by the Members, as of the following times:

(i) the acquisition of an additional interest in the Company by any new or existing Members in exchange for a Capital Contribution;

(ii) the distribution by the Company to a Member of Company Property as consideration for an interest in the Company; and

(iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (i) and (ii) above shall be made only if the Members reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company;

(3) The Gross Asset Value of any Company asset distributed to the Members shall be the gross market value of such asset on the date of distribution; and

(4) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) and Sections 8.7, 8.8, 8.9, and 8.10, hereof; provided, however, that Gross Asset Values shall not be adjusted pursuant to this paragraph (s)(4) to the extent the Members determine that an adjustment pursuant to paragraph (s)(2) of this Section is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this paragraph (s)(4).

If the Gross Asset Value of an asset has been determined or adjusted pursuant to paragraph (s)(1), (s)(2), or (s)(4), such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

(t) **“Losses”** means the losses of the Company as determined under Article VIII hereof.

(u) **“Member”** means the parties to this Agreement from time to time as indicated on Exhibit A.

(v) **“Membership Share”** means all of the rights of a Member under this Agreement and under the Act, including, but not limited to, a Member’s Financial Rights and Voting Rights.

(w) **“Net Cash Flow”** means the total net income, computed for federal income tax purposes, increased by any depreciation or depletion deductions taken into account in computing taxable income and any nontaxable income or receipts (other than capital

contributions and the proceeds of any Company borrowing); and reduced by any principal payments on any Company debts, expenditures to acquire, maintain, or improve Company assets, payments under Section 707(c) of the code, and such reasonable reserves and additions thereto as may be necessary for future contingent liabilities, and the retention of funds for future investment activities, as the Members shall determine to be advisable and in the best interest of the Company.

(x) **“Person”** means an individual, general partnership, limited liability company, limited liability partnership, limited partnership, limited liability limited partnership, trust, estate, corporation, custodian, trustee, executor, personal representative, legal representative, administrator, nominee, or any other entity or person, and any individual or entity acting in a representative capacity.

(y) **“Profits”** means the profits of the Company as determined under Article VIII hereof.

(z) **“Remaining Members”** are those Members owning units in the Company that are not deemed to be a Ceased Member under Article X.

(aa) **“Sale”** means any sale, disposition, or conversion of the Company Property in which gain or loss is recognized for Federal income tax purposes.

(bb) **“Transfer”** includes any assignment, sale, pledge, encumbrance, gift, bequest, or other transfer or disposition of a Company interest or permitting a Company interest to be sold, encumbered, attached, or otherwise disposed of, or changing the ownership in any manner whether voluntarily, involuntarily, or by operation of law.

(cc) **“Triggering Event”** shall be an event of cessation as defined in Article X.

(dd) **“Voting Rights”** means the right of Members to vote on any matter as provided in this Agreement or under the Act. Any reference to a Member’s Voting Rights shall mean the percentage of Voting Rights in the Company held by the Members.

(ee) **“Voting Rights in the Company”** means the Voting Rights held by the Members, collectively. Unless otherwise specifically provided herein, reference to a percentage of Voting Rights in the Company shall mean a percentage of the total Voting Rights held by all the Members.

(ff) **“Wrongful Conduct”** means any illegal or criminal conduct, other than misdemeanors, which may include but is not limited to fraud, theft, embezzlement, or a felonious drug offense.

ARTICLE II Formation, Purposes, and Powers

2.1 Formation.

The parties to this Agreement hereby agree to and adopt the terms and conditions set forth in this Agreement as the operating agreement of the Company. The Company shall exist under and be governed by the provisions of the Act, except as otherwise provided or modified by the

Articles of Organization or this Agreement. The Company shall exist only for the purposes specified in this Agreement and shall not be deemed to create a partnership, joint venture, or any other relationship between the Members.

2.2 Name.

The name of the Company shall be CPI MANAGEMENT GROUP, LLC, and all company business must be conducted in that name or such other names that comply with applicable law as the Members may select from time to time.

2.3 Registered Office and Registered Agent.

The current principal place of business of the company is 3535 W Harmon Ave, Las Vegas NV 89103. The current registered office of the Company is 3535 W Harmon Ave, Las Vegas NV 89103. The current registered agent at such address is Edward Clay. The Company shall have such other registered offices and agents as the Members who own fifty-one percent (51%) of the Voting Rights in the Company may designate from time to time.

2.4 Purposes.

The character of business and purposes of the Company are (a) to operate a biotech business and (b) to do any other lawful act permitted of the Company by the Act.

2.5 Powers.

Subject to the provisions of this Agreement, the Company shall have the same powers as an individual to do all things necessary or convenient to carry on its business and affairs, including the power to:

- (a) Sue and be sued, and defend in its name;
- (b) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, maintain, manage, operate, and otherwise deal with property of any kind, real, personal, tangible and intangible, or any legal or equitable interest in property, wherever located;
- (c) Sell, convey, mortgage, grant a security interest in, lease, exchange, and otherwise encumber or dispose of all or any part of its property;
- (d) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, grant a security interest in, or otherwise dispose of and deal in and with, shares or other interests in or obligations of any other entity;
- (e) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the limited liability company, and secure any of its obligations by a mortgage on or a security interest in any of its property, franchises, or income;
- (f) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (g) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (h) Conduct its business, locate offices, and exercise the powers granted by this

Agreement and the Act within or without the State of Nevada;

- (i) Appoint officers, employees, and agents of the Company, define their duties, fix their compensation, and lend them money and credit;
- (j) Pay pensions and establish qualified and non-qualified retirement plans, bonus plans, option plans, and benefit or incentive plans for any or all of its current or former Members, officers, employees, and agents, if otherwise permitted by law;
- (k) Make donations for the public welfare or for charitable, scientific, or educational purposes;
- (l) Make payments or donations, or do any other act, not inconsistent with law, that furthers the business of the Company;
- (m) Perform any act and execute and deliver any documents required by any governmental authority; and
- (n) Perform any and all other acts or activities customary, incidental, necessary, or convenient to the purposes and powers enumerated herein.

2.6 Construction.

Unless otherwise required by law, if and to the extent the provisions of this Agreement conflict with the Act, this Agreement shall control. If and to the extent the provisions of this Agreement do not conflict with the Act, the Act shall control.

**ARTICLE III
Membership and Capitalization**

3.1 Members.

Each Member’s Capital Contribution to the Company, Financial Rights, and Voting Rights are shown on Exhibit A attached hereto.

3.2 Admission of New Members.

Except as otherwise provided in Article XI, additional Members (including transferees) may be admitted to the Company only with the consent of those Members who own fifty-one percent (51%) of the Voting Rights in the Company. The consenting Members shall indicate their consent to the admission of a new Member by executing with the new Member and the Company an amendment to Exhibit A of this Agreement setting forth the names, addresses, and percentage ownership of Financial Rights and Voting Rights of all the Members as a result of the new Member’s admission. In addition, no Person shall become a Member unless such Person completes and executes an Admission Agreement or a new Operating Agreement with the Company.

Except as otherwise provided in the next paragraph, no creditor of a Member who obtains any portion of a Membership Share by charging order pursuant to the Act, or otherwise, or any Person, including any creditor, receiver, or bankruptcy estate that obtains any rights in the Company by reason of a security interest, pledge, or the filing of an action for foreclosure,

bankruptcy, receivership, divorce, or any similar proceeding may become a Member in the Company without the unanimous written consent of the Members, obtained after the transfer.

Notwithstanding anything herein to the contrary, if at any time the Company has only one Member, and if that Member's entire Membership Share, or all of that Member's Financial Rights, are transferred voluntarily by the Member by sale, exchange, or gift, or involuntarily by reason of the Member's death, incompetence, insolvency, bankruptcy, or dissolution, then the transferee(s) of such Membership Share or Financial Rights shall automatically become full Member(s) of the Company.

3.3 Transferee of Membership Share Admitted as a Member.

Upon the transferee(s) of a transferor Member's entire Membership Share or all of the transferor Member's Financial Rights in the Company becoming Member(s), the transferor ceases to be a Member.

3.4 Transferee of Membership Share Not Admitted as a Member.

If the transferee of all or any part of a Membership Share is not admitted as a Member, he shall be entitled to retain the Financial Rights transferred to him, but he shall not have any Voting Rights and shall not be entitled to participate in the management of the Company or to exercise any other rights of a Member. The transferee is subject to any claims or offsets the Company has against the transferor, regardless of whether those claims or offsets exist at the time of the transfer or arise afterwards. An amendment to this Agreement may change the rights of a transferee, even if the amendment is made after the transfer. A transferee who is not admitted as a Member shall not have the right to seek a judicial determination that it is equitable to dissolve and wind up the Company's business under the Act. The transferor continues to be a Member, entitled to all rights of a Member, other than the rights transferred.

Notwithstanding anything herein to the contrary, a transferee who is not admitted as a Member shall not be entitled to receive any distributions from the Company until such transferee delivers to the Company written notice of the transfer, proof of the transfer deemed sufficient by the Company, the transferee's federal and state tax identification numbers, and/or social security number, current legal address and telephone number, and such other information as the Company may reasonably require.

3.5 Redemption of Member's Financial Rights Subjected to Charging Order.

In the event a Member's Financial Rights are subjected to a charging order under the Act, the Company may redeem the Member's Financial Rights so charged, with Company Property, at any time prior to foreclosure of said Financial Rights in accordance with the Act. Nothing in this Section shall be construed as affecting or limiting the rights of the judgment debtor and the other Members to redeem any Financial Rights subjected to a charging order with their own property in accordance with the Act.

3.6 Power of Attorney.

Any Member may give another Member power of attorney to act for or to execute documents in the name of such Member, provided the Member giving such power of attorney delivers a copy of the power of attorney to the Company. Any such power of attorney may be changed or

revoked at any time by the Member who gave such power by giving notice of its change or revocation to the Company.

3.7 Voluntary Capital Calls.

Those Members who own fifty-one percent (51%) of the Voting Rights in the Company may request that the Members make additional Contributions to Capital by delivering notice of the request to each Member. Any additional capital shall be contributed by the Members in the same ratio as each Member's Financial Rights bears to the total of all the Financial Rights in the Company. Solely for purposes of this Section, a Member who has transferred his Financial Rights, but whose transferee has not become a Member, shall be deemed to hold the Financial Rights so transferred. If any Member fails to make his Capital Contribution within ten (10) days after notice of the capital call ("Defaulting Members") such failure shall not be a breach of this Agreement, and the amount which the Defaulting Member fails to contribute shall not be a personal debt obligation of the Defaulting Member. Such amount shall be payable only out of any distributions from the Company otherwise payable to the Defaulting Member (or his transferee). The Defaulting Member shall not be entitled to receive any distributions from the Company until all amounts due hereunder have been paid in full.

3.8 Indemnification.

Each Member shall and does hereby agree to indemnify and hold harmless the Company and the other Members from any and all liabilities, losses, costs, damages, or expenses (including, without limitation, the costs of litigation and reasonable attorneys' fees) arising out of, resulting from, or in any way related to the misrepresentation or breach of any representation or warranty of such Member set forth in this Agreement.

ARTICLE IV Member Meetings

4.1 Classes and Voting.

Unless otherwise provided by this Agreement, there shall be one class of Members. Each Member shall have the Voting Rights prescribed on Exhibit A.

4.2 Place of Meetings.

All meetings of the Members shall be held at the Company's principal place of business, or at such other place as shall be agreed upon by those Members who own fifty-one percent (51%) of the Voting Rights in the Company.

4.3 Time of Meeting.

Meetings of the Members may be called at any time by any Member by delivery to all Members of written notice at least seven (7) days in advance of the proposed meeting date. The notice shall contain the time, date, and place of the meeting.

4.4 Member Voting and Quorum.

Each Member shall be entitled to vote in proportion to his Voting Rights in the Company. In order for any vote of the Members to be valid, a quorum must be represented at the meeting

either in person or by proxy. Fifty-one percent (51%) of the Voting Rights in the Company constitutes a quorum.

4.5 Voting by Certain Members.

Voting Rights owned by a corporation or other business entity may be voted by the officer, agent, or proxy as the by-laws of that corporation or other governing instruments of the business entity prescribe, or, in the absence of such provision, as the board of directors or other governing body of the corporation or entity may determine.

Voting Rights owned by an administrator, executor, personal representative, or guardian may be voted by him, either in person or by proxy, without a transfer of such Voting Rights into his name. Voting Rights owned by a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to exercise any Voting Rights held by him without a transfer of the Voting Rights into his name.

Voting Rights owned by a receiver may be voted by the receiver, and Voting Rights owned by or under the control of a receiver may be voted by the receiver without the transfer thereof into his name if authority so to do is contained in an appropriate order of the court by which such receiver was appointed.

A Member whose Membership Shares or Voting Rights are pledged (if otherwise permitted hereunder) shall be entitled to vote such Voting Rights until the Voting Rights have been transferred into the name of the pledgee and thereafter the pledgee shall be entitled to vote the Voting Rights so transferred.

4.6 Proxies.

Members may vote by proxy appointed by an instrument in writing. A proxy shall be delivered to the other Members before the meeting at which it is to be voted and shall not be valid after the final adjournment of the meeting.

4.7 Waiver of Notice.

A Member may waive notice of any meeting by a signed writing. In addition, a Member who attends a meeting waives his right to assert any lack of notice, or defect in notice, of the meeting unless he states such objection at the outset of the meeting.

4.8 Manner of Meetings.

Members may participate in meetings by means of telephone conference or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting as provided herein shall constitute presence in person at such meeting.

4.9 Action without Meeting.

The Members may take action without notice and a meeting if all the Members consent to such action and sign a Written Consent of the Members that sets forth the action to be taken.

ARTICLE V
Management and Control

5.1 General Authority.

The Company shall be member managed, as defined in the Act. Except as otherwise expressly provided by this Agreement, any matter relating to the business and affairs of the Company shall be decided by those Members who own fifty-one percent (51%) of the Voting Rights in the Company. Such Members, or their authorized delegates, shall have full and complete authority, power, and discretion to manage and control the business, affairs, and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the management of the Company's business. Without limiting the generality of the foregoing, they shall have the power and authority on behalf of the Company to:

- (a) Acquire property, real, personal, tangible and intangible;
- (b) Borrow money for the Company from banks, other lending institutions, and other Persons and to hypothecate, encumber, and grant security interests in the assets of the Company to secure payment of the borrowed sums;
- (c) Purchase liability and other insurance to protect the Company and the Members;
- (d) Hold, own, invest and reinvest, purchase and sell, any property, real, personal, tangible and intangible, in the name of the Company, including, but not limited to, deeds, mortgages, leasehold interests, general partnerships, limited partnerships, limited liability companies, common trust funds, mutual funds, stocks, options, warrants, rights, puts, calls, contracts, futures, bonds, debentures, securities (public and private), and other debt and equity interests of any kind or nature, and to actively trade, speculate on, maintain, and manage the same;
- (e) Enter into, make, and perform contracts, agreements, and other undertakings binding on the Company that may be necessary, appropriate, or advisable in furtherance of the purposes of the Company and make all decisions and waivers thereunder;
- (f) Employ accountants, legal counsel, managing agents, money managers, property managers, investment advisors, and other advisors to perform services for the Company and to compensate them out of Company Property;
- (g) Screen, interview, and examine staff and personnel to be employed by the Company;
- (h) Open and maintain bank and investment accounts and arrangements, draw checks, letters of credit, and other orders for payment of money and designate individuals with authority to sign or give instructions with respect to those accounts and arrangements;
- (i) Pay debts and obligations of the Company to the extent that Company Property is available;

(j) Sell, purchase, lease, loan, borrow, rent, repair, partition, mortgage, pledge, encumber, develop, improve, subdivide, or otherwise deal with any property, including Company Property;

(k) Collect sums due the Company and bring suit on the Company's behalf or defend the Company in any action, and compromise, settle, collect, and otherwise represent, prosecute, and defend the legal rights and interests of the Company;

(l) File on behalf of the Company a voluntary petition for bankruptcy, or bring an action on behalf of the Company for receivership, insolvency, or other similar relief in any court of competent jurisdiction, and to defend, answer, respond, and otherwise represent the Company in any such action or proceeding; and

(m) Perform all other acts as may be necessary or appropriate to the conduct of the Company's business, and to execute, acknowledge, verify, and deliver any or all instruments desirable to effectuate any of the foregoing.

5.2 Additional Voting Requirements for Certain Major Decisions.

Notwithstanding anything herein to the contrary, the following major decisions shall require approval of the Members in the percentages designated:

(a) Any amendment to this Agreement or the Articles of Organization shall require the approval of those Members who own one hundred percent (100%) of the Voting Rights in the Company.

(b) The Company shall not compromise, settle, waive, or limit the obligation of any Member to make a Capital Contribution to the Company without the consent of those Disinterested Members who own one hundred percent (100%) of the Voting Rights owned by all Disinterested Members.

(c) The Company shall not sell, or contract to sell, or otherwise dispose of all or substantially all of the Company Property without the approval of those Members who own one hundred percent (100%) of the Voting Rights in the Company. For purposes of this subsection, all or substantially all of the Company Property means eighty-five percent (85%) of such property by value.

(d) The Company shall not enter into any merger, or any profit sharing, joint venture, or other such arrangement without the approval of those Members who own one hundred percent (100%) of the Voting Rights in the Company.

5.3 Delegation.

The Members may authorize or delegate any of their authority to any Person from time to time to act on their behalf.

5.4 Ratification.

The Members may ratify and adopt any and all acts of any Person done on behalf of the Company.

5.5 Personal Services.

No Member shall be required to perform any services for the Company by virtue of being a Member of the Company.

5.6 Compensation for Services.

Those Members who provide services to the Company shall be entitled to reasonable compensation from the Company in an amount to be determined by by one hundred percent (100%) of the Disinterested Members. Such compensation shall be paid in the form of guaranteed payments under Section 707(c) of the Code. Also, the Members shall be entitled to reimbursement for all expenses reasonably incurred by them on behalf of the Company.

5.7 Officers.

Those Members who own one hundred percent (100%) of the Voting Rights in the Company may, from time to time, designate one or more individuals to be officers of the Company. Any officers so designated shall have such authority and perform such duties as the Members may, from time to time, delegate to them. The Members may assign titles to particular officers. Unless the Members decide otherwise, if the title is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office. Any number of offices may be held by the same Person. Designation of a person as an officer shall not of itself create an employment agreement or any other contract rights. Each officer shall hold office until his successor shall be duly designated and qualified, or until his death or until he shall resign or shall have been removed, with or without cause, by those Members who own one hundred percent (100%) of the Voting Rights in the Company.

ARTICLE VI

Fiduciary Duties; Right to Rely; Indemnification

6.1 Duty of Loyalty.

A Member’s duty of loyalty to the Company and the other Members is limited to the following:

- (a) To account to the Company and to hold as trustee for the Company any property, profit, or benefit derived by the Member in the conduct or winding up of the Company’s business or derived from a use by the Member of the Company’s property, including the appropriation of a Company opportunity;
- (b) To refrain from dealing with the Company in the conduct or winding up of the Company’s business as or on behalf of a party having an interest adverse to the Company; and
- (c) To refrain from competing with the Company in the conduct of the Company’s business before dissolution of the Company.

With the consent of one hundred percent (100%) of the Disinterested Members, such Disinterested Members may identify specific types or categories of activities that do not violate

the duty of loyalty, if not manifestly unreasonable. With the consent of one hundred percent (100%) of the Disinterested Members, such Disinterested Members may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

Notwithstanding anything herein to the contrary, the Members and the Company acknowledge and agree that some or all of the Members, and/or their Family members, either directly or indirectly through other Persons, are engaged in other business and investment activities which may be considered to compete with or be adversarial to the business conducted by the Company; however, the Members and the Company intend and agree that they shall have no interest or rights with respect to any business, investment, or other activities of the Members or their Family members carried on outside the Company. The Members are sophisticated investors and are aware of the extent of the other Members' business and investment activities. No Member shall be under any obligation to disclose any business opportunity to the Company or the other Members. The fiduciary duties of the Members shall be limited to their dealings with the Company Property.

6.2 Duty of Care.

In carrying out his duties and exercising his powers hereunder, each Member shall act in a manner he believes in good faith to be in the best interests of the Company and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. Subject to the preceding sentence, no Member shall be liable, responsible, or accountable in damages or otherwise to the Company or the other Members for any acts performed or omitted by him in good faith and within the scope of this Agreement.

6.3 Fiduciary Duties.

Each Member shall discharge his duties and exercise any of his rights consistently with the obligation of good faith and fair dealing which he owes to the Company and the other Members. A Member does not violate a duty or obligation to the Company merely because the Member's conduct furthers the Member's own interest. A Member may lend money to and transact other business with the Company. As to each loan or transaction, the rights and obligations of the Member are the same as those of a Person who is not a Member, subject to other applicable law.

6.4 Right to Rely.

The Members shall not be held liable to the Company, or to the other Members, for relying in good faith upon the records required to be maintained by this Agreement and upon such information, opinions, reports, or statements by any of the Members, attorneys, accountants, agents, advisors, or any other Person who has been selected with reasonable care by or on behalf of the Company, as to matters the Member reasonably believes are within such other Person's professional or expert competence.

6.5 Indemnification of Members.

To the fullest extent allowed by law, the Members shall be indemnified and held harmless by the Company for any liability resulting from any act performed or omission made by them in good faith on behalf of the Company, except for acts or omissions of intentional misconduct or

knowing violation of the law and any transaction for which the Member received a personal benefit in violation or breach of any provision of this Agreement.

6.6 Duty of Confidentiality.

Each Member hereby warrants, covenants, and agrees that he will not furnish, divulge, communicate, use to the detriment of the Company, or use for the business of any other Person, any of the Company’s confidential information, including but not limited to pricing information, data, sales methods, know how, processes, licenses, trade secrets, names of customers, customer lists, names of Members, or the partners, shareholders, members, or other principals of any Member, future plans, accounting, marketing, financial data, or contract information. Each Member agrees to return all documents which contain any confidential information and all copies of such documents upon request by the Company.

**ARTICLE VII
Capital Accounts and Accounting**

7.1 Capital Accounts.

The Company shall establish for each Member a Capital Account, which shall be maintained in accordance with Section 704 of the Code and the capital account rules set forth in Treasury Regulations Section 1.704-1(b).

7.2 Compliance with Section 704(b) of the Code.

The provisions of this Agreement as they relate to the maintenance of Capital Accounts and allocations of Profits and Losses are intended, and shall be construed, and, if necessary, modified to cause the allocations of Profits, Losses, Gain, income, deductions, credit, and other items pursuant to this Agreement to have substantial economic effect within the meaning of the Treasury Regulations promulgated under Section 704(b) of the Code. Notwithstanding anything herein to the contrary, this Agreement shall not be construed as creating a deficit restoration obligation.

7.3 Partnership Representative.

Edward Clay is designated the initial partnership representative of the Company, as defined in Section 6223(a) of the Code. The Company may designate a new partnership representative from time to time without amending this Agreement.

**ARTICLE VIII
Interim Distributions and Allocations**

8.1 Distributions.

Distributions to the Members shall be made in accordance with the following:

- (a) First, the Company shall distribute to those Members who have provided services to the Company the compensation to which each is entitled under Article V. Such distributions shall be guaranteed payments within the meaning of Section 707(c) of the Code.

(b) From time to time those Members who own fifty-one percent (51%) of the Voting Rights in the Company shall determine to what extent, if any, the Company's Net Cash Flow exceeds the current and anticipated needs of the Company's business. Any Company Net Cash Flow in excess of such amounts shall be distributed to the Members.

(c) Notwithstanding anything herein to the contrary, within seventy-five (75) days after the end of each calendar year, the Company shall distribute to the Members an amount equal to forty percent (40%) of the Company's income that is taxable to the Members for federal income tax purposes for the immediately preceding calendar year. The amount of the distribution required under this subsection shall be reduced by all distributions which previously have been made from the Company to the Members pursuant to this Section for such calendar year other than guaranteed payments within the meaning of Section 707(c) of the Code.

Except as otherwise provided in this Agreement, all distributions to the Members must be made simultaneously to each of the Members and must be made in proportion to the Members' Financial Rights. Such distributions may be in cash or Company Property or partly in both. Items of Company Property need not be distributed proportionately, provided the Members agree upon the value of the property being distributed and the value of the property and the cash received by each Member is proportionate to his Financial Rights.

Subject to the Act, at the time that a Member becomes entitled to receive a distribution, the Member has the status of and is entitled to all remedies available to a creditor of the Company with respect to the distribution.

8.2 Restrictions on Distributions.

Notwithstanding anything herein to the contrary, no distribution to any Member may be made if after giving effect to the distribution either (a) the Company would not be able to pay its debts as they become due in the ordinary course of business, or (b) the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed if the Company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of Members whose preferential rights are superior to those receiving the distribution. The provisions of Section 14-11-407 of the Act shall apply in construing this Section.

8.3 Calculation of Profits and Losses.

The Profits and Losses of the Company for each fiscal year or other period shall be the taxable income or loss of the Company for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be separately stated pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any Company income which is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to this subsection shall be added to such taxable income or loss.

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) (expenditures of the Company not deductible in computing its taxable income and not

properly chargeable to a capital account) or treated as such expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i)(2) and (3) (organizational expenditures which the Company elects not to amortize under Code Section 709(b) and certain disallowed losses) and not otherwise taken into account in computing Profits and Losses pursuant to this subsection shall be subtracted from such taxable income or loss.

(c) Gain or loss with respect to the disposition of Company Property with respect to which gain or loss is recognized for federal income tax purposes shall be computed based upon the “adjusted book value” (as determined in the Treasury Regulations promulgated under Code Section 704) of such property without regard to the adjusted basis.

(d) Depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss shall, for purposes of this subsection, be based upon the “adjusted book value” (as determined in the Treasury Regulations promulgated under Section 704) of Company Property.

(e) Notwithstanding any other provision of this Section 8.3, any items which are specifically allocated pursuant to Section 8.11 shall not be taken into account in computing Profits and Losses.

8.4 Allocation of Profits and Losses.

The Profits and Losses of the Company for any fiscal year of the Company shall be allocated among the Members in accordance with their Financial Rights. The proceeds of any life insurance policy insuring the life of a Member which are received by the Company shall be allocated to the surviving Member(s), and the deceased Member, his estate, successors, or legal representatives shall have no interest in or distributive share of such proceeds.

8.5 Tax Item Allocation.

Unless otherwise specially allocated herein, whenever a proportionate part of Profits or Losses is charged or credited to the Capital Account of a Member, every item of income, gain, loss, deduction, credit, allowance, or tax preference entering into the computation of such Profits or Losses or applicable to the period during which such Profits or Losses were realized shall be considered credited or charged, as the case may be, to such Capital Account in the same proportion. In the event of a transfer of Financial Rights in the Company at any time other than at the end of the Company’s tax year, the distributive share of Profits and Losses and any items of Company income, gain, loss, deduction, credit, or tax preference attributable to the transferred Financial Rights shall be apportioned for income tax purposes between the transferor and transferee in accordance with the number of days in the taxable year of the Company that each was the owner of such Financial Rights.

8.6 Code Section 704(c).

In accordance with the provisions of Code Section 704(c), income, gain, loss, and deductions with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated to the Members so as to take account of any variation between the adjusted basis of such property and the Gross Asset Value at the time of contribution.

In the event the Gross Asset Value of any Company asset is adjusted pursuant to Section 1.1(s), subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Gross Asset Value in the same manner as under Code Section 704(c) and the Regulations thereunder.

Any elections or other decisions relating to such allocations shall be made by the Members in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 8.6 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of the Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

8.7 Nonrecourse Deductions.

Notwithstanding anything herein to the contrary, beginning in the first taxable year of the Company in which there are nonrecourse deductions, all nonrecourse deductions and distributions of proceeds attributable to nonrecourse borrowing (as defined in Treasury Regulations Section 1.704-2) shall be allocated in accordance with the Members' Financial Rights or in any other manner that is reasonably consistent with allocations that have substantial economic effect of some other significant Company item attributable to the property securing the nonrecourse liabilities. Items attributable to a particular Member's nonrecourse liability (as defined in Treasury Regulations Section 1.704-2(b)(4)) shall be allocated to the Member that bears the economic risk of loss for the liability.

8.8 Minimum Gain Chargeback Requirements.

Except as otherwise provided in Treasury Regulations Section 1.704-2(f), if there is a net decrease in Company minimum gain (as determined under Treasury Regulations Section 1.704-2(d)) for the Company's taxable year, each Member must be allocated items of income and gain for that taxable year equal to that Member's share of the net decrease in Company minimum gain. A Member's share of the net decrease in Company minimum gain is the amount of the total net decrease multiplied by the Member's percentage share of Company minimum gain at the end of the immediately preceding taxable year (as determined in Treasury Regulations Section 1.704-2(g)). A Member is not subject to this minimum gain chargeback requirement to the extent the Member's share of the net decrease in Company minimum gain is caused by a guarantee, refinancing, or other change in the debt instrument causing it to become partially or wholly a recourse liability or a Member nonrecourse liability, and the Member bears the economic risk of loss (within the meaning of Treasury Regulations Section 1.752-2) for the newly guaranteed, refinanced, or otherwise changed liability.

If during a taxable year there is a net decrease in Member nonrecourse debt minimum gain (as determined under Treasury Regulations Section 1.704-2(i)(2)), any Member with a share of that Member nonrecourse debt minimum gain (as determined under Treasury Regulations Section 1.704-2(i)(5)) as of the beginning of that taxable year must be allocated items of income and gain for that taxable year (and, if necessary, for succeeding taxable years) equal to that Member's share of the net decrease in the Member nonrecourse debt minimum gain. A Member's share of the net decrease in Member nonrecourse debt minimum gain is determined in

a manner consistent with the provisions of Treasury Regulations Section 1.704-2(g)(2). A Member is not subject to this minimum gain chargeback requirement, however, to the extent the net decrease in Member nonrecourse debt minimum gain arises because the liability ceases to be Member nonrecourse debt due to a conversion, refinancing, or other change in the debt instrument that causes it to become partially or wholly a nonrecourse liability. The amount that would otherwise be subject to the member nonrecourse minimum gain chargeback is added to the Member's share of Company minimum gain under Treasury Regulations Section 1.704-2(g)(3).

8.9 Qualified Income Offset.

Unless otherwise agreed, a Member is not required to fund any deficit in the Member's Capital Account at any time. However, if a Member unexpectedly receives an adjustment, allocation, or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), and the unexpected adjustment, allocation, or distribution results in a deficit balance in the Capital Account for the Member (or a deficit balance in excess of any limited dollar amount the Member is obligated to restore), the Member will be allocated items of income and gain consisting of a pro rata portion of each item of Company income and gain for such year in an amount and manner sufficient to eliminate the deficit balance or the increase in the deficit balance as quickly as possible. This Section will be interpreted, applied, and if necessary modified to constitute a "qualified income offset" as defined in Treasury Regulations Section 1.704-1(b)(2)(ii)(d).

8.10 Section 754 Adjustments.

To the extent an adjustment to the adjusted tax basis of any Company Property pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations.

8.11 Curative Allocations.

The allocations set forth herein are intended to comply with the Regulations promulgated under Section 704 of the Code and in the event that any allocation is required to be made pursuant to such Regulations ("Regulatory Allocations"), then such Regulatory Allocations shall be taken into account in allocating items of income, gain, loss, and deduction among the Members so that, to the extent possible, the net amount of such allocations of other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred. The Members shall have reasonable discretion, with respect to each Company tax year, to apply the provisions of this Section 8.11 in whatever order is likely to minimize the economic distortions that might otherwise result from the Regulatory Allocations.

8.12 Distributions Subject to Set-Off.

Except as otherwise provided in this Agreement, all distributions are subject to set-off by the Company for any past-due obligation of a Member to the Company.

**ARTICLE IX
Dissolution, Winding Up, and Termination**

9.1 Dissolution.

Except as otherwise provided herein, the Company shall dissolve, its affairs shall be wound up, and the Company shall terminate only upon the happening of one or more of the following events:

- (a) The written consent of those Members who own fifty-one percent (51%) of the Voting Rights in the Company;
- (b) Any event occurs that makes it unlawful for all or substantially all of the business of the Company to be continued, but any cure of illegality within ninety (90) days after notice to the Company of the event is effective retroactively to the date of the event for purposes of this subsection;
- (c) The filing by the Secretary of State of a certificate administratively dissolving the Company pursuant to the Act, unless the Company is reinstated in accordance with the Act.
- (d) A decree of judicial dissolution entered by a court of competent jurisdiction.

9.2 Winding Up: Powers and Duties of Liquidator.

Except as otherwise provided herein, following dissolution of the Company, those Members who own fifty-one percent (51%) of the Voting Rights in the Company shall appoint one or more Members or an independent third party to serve as liquidator. The liquidator shall have full authority in winding up the Company's affairs. The liquidator shall:

- (a) Deliver notice of the Company's dissolution to all of the Company's known claimants and creditors in the form and manner described in the Act;
- (b) Publish notice of the Company's dissolution as provided in the Act;
- (c) Make final liquidating distributions as provided below, and distribute any Company Property discovered after any such final liquidating distributions in the manner described below; and
- (d) After dissolution and the completion of winding up, file a Certificate of Termination with the Nevada Secretary of State to terminate the legal existence of the Company in accordance with the Act.

9.3 Sale of Company Property.

Unless otherwise agreed by those Members who own fifty-one percent (51%) of the Voting Rights in the Company, the liquidator shall first attempt to sell all or any part of the Company's business as a going concern. If any such sale or partial sale is not consummated within six (6)

months after the date of the dissolution, or such other period of time agreed to by such Members, the liquidator shall publish notice that all unsold Company assets are for sale and solicit bids for such assets. Any Company assets which remain unsold six (6) months after the date of the first publication of such notice shall be marshaled and auctioned by the liquidator. All assets unsold after the auction shall be distributed in kind in the manner described below.

9.4 Distribution in Kind.

The Company may distribute assets in kind to satisfy any or all of its obligations. If the Company will distribute assets in kind, the Members shall have thirty (30) days to agree upon the fair market value of such assets. If the Members cannot agree on the fair market value of any asset, the liquidator shall hire an independent appraiser to determine the fair market value of the asset in question. Any property distributed in kind shall be treated in accordance with Sections 721, 736, 737, and 751 of the Code. The liquidator shall adjust the Members' Capital Accounts to reflect any gain or loss which would have been allocated had such property been sold for its fair market value.

9.5 Final Liquidating Distributions.

After the sale of all Company assets, or the determination of fair market value for distribution in kind of Company assets, the liquidator shall apply the proceeds of the sale or the Company assets as follows:

- (a) Payment or adequate provision for payment shall be made to creditors, including the liquidator if the liquidator is not a Member, for reimbursement for out-of-pocket expenses incurred and reasonable compensation for services rendered in connection with winding up the Company, and to the extent permitted by law, to Members who are creditors in satisfaction of liabilities of the Company;
- (b) If the liquidator is a Member, to the liquidator for reimbursement for out-of-pocket expenses incurred and reasonable compensation for services rendered in connection with winding up the Company;
- (c) All remaining cash and other assets shall be distributed to the Members in accordance with their positive Capital Account balances, determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the distribution occurs.

9.6 Deficit Capital Account Balances.

Any deficit in a Member's Capital Account shall not be an asset of the Company, and no Member or transferee of all or any part of a Membership Share shall be obligated to contribute any amount to the Company in excess of any limited dollar amount the Member or transferee has otherwise agreed to restore.

9.7 Final and Complete Distribution.

The distributions provided for in this Article shall constitute a complete return of the Members' Contributions to Capital, and a final and complete distribution to the Members in satisfaction of all of their rights in the Company.

9.8 Duties during Winding Up.

The duty of loyalty, duty of care, and other fiduciary duties set forth in this Agreement shall apply to any Person winding up the Company's business.

**ARTICLE X
Cessation**

10.1 Events of Cessation.

The provisions of the Act relating to cessation shall not apply to the Company. No Member shall have the power to withdraw from the Company except as provided herein. Only the occurrence of one or more of the following events with respect to a Member shall constitute the cessation of such Member:

- (a) Withdrawing, retiring, or resigning from the Company with the consent of those Members who own fifty-one percent (51%) of the Voting Rights in the Company; or
- (b) If a Member files a voluntary petition for bankruptcy, is adjudicated a bankrupt, or has a bankruptcy petition filed against him which is not dismissed within ninety (90) days; or
- (c) Entry of an order by a court of competent jurisdiction adjudicating a Member to be insane, the appointment of a guardian for a Member, or a judicial determination that a Member has otherwise become incapable of performing his duties under this Agreement; or
- (d) The giving by a Member of notice to the Company that the Member desires to transfer all or any portion of his Membership Share; or
- (e) The death of a Member; or
- (f) The Disability of a Member (Disability shall mean totally and permanently disabled for a period of twelve (12) months during a fifteen (15) consecutive month period so that a Member is unable to engage in his usual Company duties as determined by a doctor selected and paid by the Company); or
- (g) The engagement in Wrongful Conduct by a Member; or
- (h) The filing of a Petition or Complaint for Divorce, on any grounds, by a Member or Member's spouse resulting in all or a portion of a Member's Shares being transferred or awarded to a Person who is not a Member at the time of the filing; or
- (i) If a Member engages in any sale, merger, share exchange, partnership, joint venture, or other arrangement, including the issuance of new shares of stock or equity interests in the Member or in any Person that Controls the Member, and as a result of said transaction a Person who is not one of the group of Persons in Control of the Member, as of the date such Member became a party to this Agreement, takes Control of the Member; or
- (j) The filing of a Certificate of Dissolution, or the equivalent, for a Member that is a corporation, limited liability company, limited partnership, or other entity, or the lapse of

ninety (90) days after notice to such Member of revocation of its charter without a reinstatement of its charter.

10.2 Effect of a Member's Cessation.

Unless otherwise provided in Article IX, the Cessation of a Member does not dissolve the Company. The right of a Ceased Member to be compensated for his Membership Share shall be governed exclusively by Article XI and not the Act. The parties waive any right they may have to assert that the Act or any other provision of law supersedes or modifies the provisions of this Agreement relating to the cessation of a Member's participation in the Company.

10.3 Effect on Cessation if There is Only One Remaining Member.

If a Triggering Event occurs that would cause the sole Member to be a Ceased Member, such Triggering Event shall not be deemed to cause the Cessation of such Member, but instead all rights associated with such Member's Membership Share shall be held by such Member's personal representative, power of attorney, trustee, conservator, receiver, liquidator, or similar fiduciary. Should a Triggering Event occur that causes simultaneous Cessation of all Remaining Members, then such Members shall not be treated as Ceased Members, but instead all rights associated with such Members' Membership Share shall be held by such Members' personal representative, power of attorney, trustee, conservator, receiver, liquidator, or similar fiduciary.

ARTICLE XI

Restrictions on Transfer and Buy-Sell Provisions

11.1 Restrictions on Transfer.

No Member may Transfer any portion or all of his Membership Share to any Person without the prior written consent of those Members who own fifty-one percent (51%) of the Voting Rights in the Company (without regard to the Member desiring to transfer his Membership Share). If such consent is obtained, the provisions of Article III shall govern the rights of the transferor and transferee. Any attempted conveyance or encumbrance of all or a portion of a Membership Share not expressly permitted herein shall be null, void, and without effect.

11.2 Right to Purchase.

(a) Cessation for Reasons Other Than Death. If a Member Cessation occurs within the meaning of Article X ("Triggering Event") other than by reason of death, then - such Member ("Ceased Member") is deemed to have offered to the Company all of his Membership Share at the price determined in accordance with Section 11.3 and upon the terms contained in Section 11.4.

If the Company does not accept said offer within ten (10) days after receiving written notice of the Triggering Event from the Ceased Member (or his estate or other legal representative, as the case may be) and the determination of the purchase price, then such Ceased Member's Membership Share shall be offered in writing, at the same price and upon the same terms, to the other Members ("Remaining Members") by delivery of written notice to them. The Company and/or the Remaining Members may accept the offer by

delivering written notice to the Ceased Member. If the Company and/or the Remaining Members accept the offer, then all of the Membership Share offered for sale must be purchased by the Company and/or the Remaining Members. In the event more than one offeree accepts the offer, those accepting shall purchase in proportion to their Membership Shares, unless they agree otherwise.

If none of the Remaining Members accept the offer to purchase the Ceased Member's Membership Share within ten (10) days after receipt of written notice by them, then the Membership Share may be offered for sale to any Person, provided that such Membership Share shall be sold for at least the same price and upon the same terms at which it was offered to the Company and the Remaining Members.

In the event any sale of a Membership Share to a third Person shall not be consummated within sixty (60) days after the expiration of the Remaining Members' option to purchase, the Membership Share or any portion thereof may not be transferred unless the same shall be offered again to the Company and the Remaining Members in the manner and in accordance with the terms herein provided.

(b) Death. Notwithstanding anything herein to the contrary, upon the death of a Member, the Company shall purchase, and the estate of the decedent, or his successor in interest by operation of law shall sell all of the decedent's Membership Share in the Company now owned or hereafter acquired. The purchase price of such Membership Share shall be computed in accordance with the provisions of Section 11.3 and paid in accordance with the provisions of Section 11.4.

11.3 Purchase Price.

Unless the Member offering the Membership Share hereunder and those Remaining Members who own fifty-one percent (51%) of the Voting Rights agree otherwise, the purchase price shall be determined in accordance with the following:

The purchase price shall be the Appraised Value (as defined herein) of the Membership Share as of the date of the Triggering Event. Appraised Value shall mean the Fair Market Value (as defined below) of the Membership Share, without taking any applicable minority, lack of marketability, and other similar type discounts, including, but not limited to, those related to undivided interests in real estate, voting versus non-voting interests, blockage, key-person, or portfolio issues, obtained by agreement of two (2) appraisers, one appointed by the seller and one appointed by fifty-one percent (51%) of the Remaining Members on behalf of the Company. The seller and Company must appoint their respective appraisers by delivering notice of the identity of their respective appraisers to each other within thirty (30) days after Company receives written notice of the Triggering Event from the Ceased Member (or his estate or other legal representative, as the case may be). If the two (2) appraisers cannot agree on an Appraised Value within thirty (30) days after the last of them is appointed, then within five (5) days, they shall appoint a third appraiser to value the Membership Share. The third appraiser shall determine the Appraised Value within thirty (30) days after his appointment. The Appraised Value shall be the average of the two (2) appraisals which are closest to each other. In the event the third appraiser's determination of the Appraised Value is an exact average of the first two appraisals, then such third appraiser's determination shall be the Appraised Value. Fair Market

Value is defined as the cash equivalent price at which property would change hands between a hypothetical willing buyer and a hypothetical willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of relevant facts. The hypothetical buyer and seller are assumed to be able, as well as willing, to trade and are assumed to be well-informed about the property and concerning the market for such property. The seller and the Company - shall each pay the costs of the appraiser appointed by them, and one-half (1/2) of the cost of the third appraiser. The purchase price as determined herein shall be conclusive and binding on the parties, their personal representatives, legal representatives, heirs, successors and assigns. If any party fails to appoint an appraiser within the time required herein, the purchase price determined by the appraiser appointed by the other party shall be conclusive and binding upon the seller and purchaser(s), their personal representatives, legal representatives, heirs, successors, and assigns.

11.4 Payment of Purchase Price.

The closing of the purchase shall take place at the principal place of business of the Company within sixty (60) days after the purchase price has been determined and an offer accepted, or at such other date and place as the parties may agree.

Unless the parties mutually agree otherwise, ten percent (10%) of the purchase price shall be paid in cash at closing with the balance due in a five (5)-year promissory note at the then existing mid-term applicable federal interest rate.

Further, if a selling Member has personally guaranteed payment of any debt, obligation, or liability of the Company, then the purchaser(s) of the Member's Membership Share shall make reasonable efforts to have such Member (or his estate or successor(s)) released from such guarantee. If the lender or creditor refuses to release such Member, then the Company and the other Members, if the Company is purchasing the Membership Share, (or the purchasing Member(s) only if the Company is not purchasing the Membership Share), shall in writing, jointly and severally, indemnify and hold harmless such selling Member (or his estate, as the case may be) from payment of said debt, obligation, or liability.

11.5 Permitted Transfers.

Any of the Members may transfer a Membership Share without the provisions of this Article XI applying if the transferee is a revocable trust created by a Member that benefits that Member during his lifetime. Additionally, the following transfers are permitted without the provisions of this Article XI applying: (1) any transfer to a successor trustee of the same revocable trust where the original transferor to the revocable trust is still living and (2) any transfer from a revocable trust to the Member that made the original transfer to the revocable trust. The death of any Member whose Membership Share or any portion thereof is held in a revocable trust shall be treated as a Triggering Event under Section 10.1(e). A transfer other than as permitted in this Section 11.5 shall be subject to the provisions of this Article XI.

ARTICLE XII
Resolution of Deadlock

12.1 Deadlock Resolution.

(a) “Deadlock” means a dispute among the Members, including the inability to agree on a vote or other decision, that has continued for more than fifteen (15) days, that is not resolved by the provisions on voting contained herein, concerning the business or affairs of the Company; provided, however, that a Deadlock shall not include any dispute regarding an interpretation of any terms or conditions of this Agreement; provided further, that a Deadlock shall not include the failure of the Members to approve any matter requiring unanimous approval under Section 5.2. In the event the Members reach a Deadlock, each Member agrees to submit the decision to non-binding mediation to attempt to resolve the dispute. Mediation must be requested by any Member or group of Members with the service of a written notice of such request on the other Members. All negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

(b) In the event the Deadlock has not been resolved within thirty (30) days after the date any Member or group of Members first demanded mediation in writing (“Resolution Date”) or mediation is attempted and fails, then any Member or group of Members (“Offering Member”) shall have the right for ten (10) days after the Resolution Date or date of failed mediation, as the case may be, to serve a notice in writing making both an offer to buy and sell, stipulating the price per unit which the Offering Member will purchase all of the units of the Company held by the other Members (“Offeree Members”) or at which the Offering Member will sell all of the units of the Company held by the Offering Member to the Offeree Members, together with the terms upon which the purchase or sale shall be completed. The first Member or group of Members to serve a notice in written shall be deemed to be the Offering Member. The price and terms for the Offering Member’s offer to purchase and offer to sell must be the same. The Offeree Members shall have a period of sixty (60) days from the service of such notice in which to notify the Offering Member, in writing, as to whether the Offeree Members elect to purchase the Offering Member’s units at said price, or to sell to the Offering Member the Offeree Members’ units at the same price. In absence of a response from the Offeree Members, the Offeree Members shall be deemed to have served notice of their willingness to sell all of their remaining units and such deemed notice shall be effective as of the forty-fifth (45th) day following service of notice by the Offering Member. Any group of Members acting as the Offering Member or Offeree Members as defined under this Section 12.1 shall purchase the units pro rata.

(c) In the event no offer is made in the ten (10) day period following the Resolution Date or date of failed mediation, as the case may be, the Member or group of Members who requested mediation shall serve a notice, in writing within ten (10) days of the expiration period provided for in Section 12.1, paragraph (b), making both an offer to buy and sell, stipulating the price per unit which the Member or group of Members (“Mediation Offering Member”) will purchase all of the units of the Company held by the other Members (“Offeree Members”) or at which the Mediation Offering Member will sell all of the units of the Company held by the Mediation Offering Member to the Offeree Members, together with the terms upon which the purchase or sale shall be completed. The price and terms for the Mediation Offering Member’s offer to

purchase and offer to sell must be the same. The Offeree Members shall have a period of sixty (60) days from the service of such notice in which to notify the Mediation Offering Member, in writing, as to whether the Offeree Members elect to purchase the Mediation Offering Member's units at said price, or to sell to the Mediation Offering Member the Offeree Members' units at the same price. In absence of a response from the Offeree Members, the Offeree Members shall be deemed to have served notice of their willingness to sell all of their remaining units and such deemed notice shall be effective as of the forty-fifth (45th) day following service of notice by the Offering Member. Any group of Members acting as the Mediation Offering Member or Offeree Members as defined under this Section 12.1 shall purchase the units pro rata.

**ARTICLE XIII
Securities Provisions**

13.1 Securities Notice.

The membership units have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state. Each membership unit certificate shall have the following legend placed on it:

NEVADA SECURITY LEGEND

THE UNITS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE NEVADA SECURITIES ACT OF 1980, AS AMENDED, IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF SUCH ACTS, INCLUDING, WITHOUT LIMITATION, PARAGRAPH (B)(4) OF T.C.A. § 48-1-103 OF THE NEVADA SECURITIES ACT OF 1980, AS AMENDED. THE UNITS REPRESENTED BY THIS CERTIFICATE MAY NOT BE SOLD OR OTHERWISE TRANSFERRED, NOR WILL AN ASSIGNEE OR ENDORSEE HEREOF BE RECOGNIZED AS AN OWNER OF THE UNITS BY THE ISSUER UNLESS (I) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS WITH RESPECT TO THE UNITS AND THE TRANSFER SHALL THEN BE IN EFFECT, (II) IN THE OPINION OF COUNSEL SATISFACTORY TO THE ISSUER, THE UNITS ARE TRANSFERRED IN A TRANSACTION WHICH IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF SUCH LAWS, OR (III) A NO-ACTION LETTER OR ITS THEN EQUIVALENT WITH RESPECT TO SUCH SALE OR TRANSFER HAS BEEN ISSUED BY THE STAFF OF THE SECURITIES AND EXCHANGE COMMISSION AND BY THE SECURITIES DIVISION OF THE STATE OF NEVADA, IF APPROPRIATE. IN ADDITION, THE UNITS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER TERMS AND CONDITIONS SET FORTH IN THE OPERATING AGREEMENT AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED, OR TRANSFERRED EXCEPT IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE OPERATING AGREEMENT AND ANY AMENDMENT THERETO.

ARTICLE XIV
Miscellaneous Provisions

14.1 Members' Rights to Receive Information.

(a) The Company shall provide Members and their agents and attorneys access to its records, if any, at the Company's principal office. The Company shall provide former Members and their agents and attorneys access for proper purposes to records pertaining to the period during which they were Members. The right of access provides the opportunity to inspect and copy records during ordinary business hours. The Company may impose a reasonable charge, limited to the costs of labor and material, for copies of records furnished.

(b) The Company shall furnish to a Member, and to the legal representative of a deceased Member or Member under legal disability:

(1) Without demand, information concerning the Company's business or affairs reasonably required for the proper exercise of the Member's rights and performance of the Member's duties under this Agreement and the Act; and

(2) On demand, other information concerning the Company's business or affairs, except to the extent the demand or the information is unreasonable or otherwise improper under the circumstances.

(c) A Member has the right upon written demand given to the Company to obtain at the Company's expense a copy of this Agreement.

14.2 Notices.

All notices, consents, requests, demands, offers, reports, or other communications required or permitted hereunder shall be in writing and hand delivered or sent by certified or registered mail, postage prepaid, and return receipt requested, to the Company at its principal place of business and to a Member at the address on Exhibit A attached hereto, or to such other address as may hereafter be designated by the giving of notice in accordance with this Section. All notices, consents, or other communications shall be deemed given when actually hand delivered, or upon the date of mailing in accordance with this Section.

14.3 Amendment or Modification.

The Operating Agreement may be amended and modified from time to time only by a written instrument adopted and executed by all Members as determined in Section 5.2(a).

14.4 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada regardless of the residence or domicile, now or in the future, of any party hereto and notwithstanding any conflicts of laws.

14.5 Waiver.

No waiver of any breach of any covenant, agreement, or undertaking contained herein shall operate as a waiver of any subsequent breach of the same covenant, agreement, or undertaking or as a waiver of any breach of any other covenant, agreement, or undertaking. In the case of a

breach by any party of any covenant, agreement, or undertaking, the nonbreaching party may nevertheless accept from the other, any payment or performance without waiving its right to exercise any right or remedy provided herein or otherwise, with respect to any such breach which was in existence at the time such payment or performance was accepted by it. No failure of any party to exercise any power given herein or to insist upon strict compliance with any covenant, agreement, or undertaking contained herein, or to object to any custom or practice which varies from the terms hereof, shall constitute a waiver of such party's right to demand exact compliance with the terms of this Agreement. The waiver by any party of a breach of any covenant, agreement, or undertaking contained herein shall be made only by a written waiver in each case, and no such waiver shall operate or be construed as a waiver of any prior or subsequent breach.

14.6 Severability.

If any provision of this Agreement shall, to any extent, be held invalid, illegal, or unenforceable, in whole or in part, the validity, legality, and enforceability of the remaining part of such provision, and the validity, legality, and enforceability of the other provisions hereof, shall not be affected thereby and each term, covenant, or condition shall be valid and enforceable to the fullest extent permitted by law. If any such invalidity shall be caused by the length of any period of time, the size of any area or the scope of activities set forth in any provision hereof, such period of time, such area or scope or all, shall be considered to be reduced to a period, area, or scope which would cure such invalidity. Any provision of this Agreement that is held invalid, illegal, or unenforceable in any jurisdiction shall not be deemed invalid, illegal, or unenforceable in any other jurisdiction.

14.7 Counterparts.

This Agreement may be executed in more than one counterpart, each such counterpart shall be deemed an original, and all such counterparts shall constitute one and the same agreement. This Agreement shall be effective when executed by all parties, but all parties need not execute the original or the same counterpart.

14.8 Captions.

The headings, titles, and captions of the Articles and Sections of this Agreement are inserted only to facilitate reference. They shall not define, limit, extend, or describe the scope or intent of this Agreement or any provision hereof, and they shall not constitute a part hereof or affect the meaning or interpretation of this Agreement or any part hereof.

14.9 Entire Agreement.

This Agreement embodies the entire understanding and agreement among the parties pertaining to the subject matter hereof, and all prior or contemporaneous representations, agreements, and understandings of the parties, whether written or oral, are superseded by this Agreement and shall be deemed merged herein.

14.10 Binding Effect.

This Agreement shall be binding upon, shall inure to the benefit of, and shall be enforceable by and against all the parties and their respective heirs, legal representatives, personal representatives, successors, and permitted assigns. Nothing in this Agreement, expressed or

implied, is intended to or shall confer upon any Person other than the parties, and their respective heirs, legal representatives, personal representatives, successors, and permitted assigns, any rights, remedies, obligations, or liabilities.

14.11 Use of Terms.

Use of the terms “herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter,” and other equivalent words refer to this Agreement in its entirety and not solely to the particular portion of the Agreement in which such word is used. Reference to “this Article,” “this Section,” or a similar reference to a specific part of this Agreement shall refer to the particular Article, Section or specific part in which such reference appears. Whenever used herein, any pronoun shall be deemed to include both the singular and plural and all genders.

14.12 Further Assurances.

In connection with this Operating Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Operating Agreement and those transactions.

14.13 Exhibits.

The exhibits attached to this Agreement are hereby made a part hereof and incorporated by reference. All such exhibits shall read as of the date of this Agreement or, as to any of the exhibits bearing a particular date, as of any other date specified therein.


14.14 Attorneys’ Fees.

In the event that any party (“Defaulting Party”) defaults in an obligation under this Agreement and, as a result thereof, the other party (“Non-defaulting Party”) seeks to legally enforce rights hereunder against the Defaulting Party, then, in addition to all damages and other remedies to which the Non-defaulting Party is entitled by reason of such default, the Defaulting Party shall promptly pay to the Non-defaulting Party an amount equal to all reasonable costs and expenses (including, but not limited to, reasonable attorneys’ fees, litigation expenses, court costs, and expert witness fees) paid or incurred by the Non-defaulting Party in connection with such enforcement.


Operating Agreement of CPI MANAGEMENT GROUP, LLC

IN WITNESS WHEREOF, the undersigned have executed, with the intent to seal, this Operating Agreement as of the day and year first above written.


WITNESSES:

DocuSigned by:


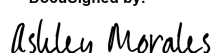
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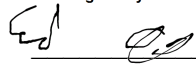
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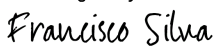
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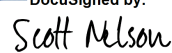
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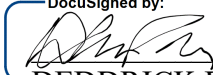
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MEMBERS:

DocuSigned by:

 _____ (L.S.)
 EDWARD CLAY

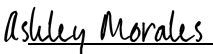
DocuSigned by:

 _____ (L.S.)
 FRANCISCO SILVA

DocuSigned by:

 _____ (L.S.)
 SCOTT NELSON

DocuSigned by:

 _____ (L.S.)
 DEDRICK PERRY

COMPANY:

CPI MANAGEMENT GROUP, LLC

DocuSigned by:


 6A80994A08D74D3...

DocuSigned by:

 By: _____ (SEAL)
 Edward Clay, Member

EXHIBIT A

| Member Name | Membership Units | Capital Contributed | Financial Rights | Voting Rights |
|--|-------------------------|----------------------------|-------------------------|----------------------|
| Edward Clay 3535 W Harmon Ave, Las Vegas NV 89103 | 375 | \$375 | 37.5% | 37.5% |
| Francisco Silva 3535 W Harmon Ave, Las Vegas NV 89103 | 250 | \$250 | 25% | 25% |
| Scott Nelson 3535 W Harmon Ave, Las Vegas NV 89103 | 22.5 | \$225 | 22.50% | 22.50% |
| Deddrick Perry 3535 W Harmon Ave, Las Vegas NV 89103 | 15 | \$150 | 15% | 15% |

EXHIBIT 5

BioRestorative Therapies, Inc.
40 Marcus Drive, Suite One
Melville, New York 11747

February 11, 2025

To: Francisco Silva

Reference is made to your email of February 3, 2025 and the Executive Employment Agreement, dated as of March 18, 2021, between BioRestorative Therapies, Inc. (the "Company") and you (the "Employment Agreement"). All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Employment Agreement.

In your email, you seek to confirm the ownership of cell lines that were biologically derived from your children's umbilical cords and that were labeled as master cell line #VJS040119FS for Victor Silva and master cell line #041321FS for Selma Silva (collectively, the "FS Cell Lines").

The Company hereby acknowledges and confirms that you own the FS Cell Lines. This letter shall not be construed to limit your obligations under the Employment Agreement, including the restrictive covenants set forth in Section 7 of the Employment Agreement. In addition, except for the ownership of the FS Cell Lines, you remain bound by the provisions of Section 8 of the Employment Agreement with respect to the assignment of Developments to the Company.

Very truly yours,

BIORESTORATIVE THERAPIES, INC.

DocuSigned by:
Lance Alstodt
By: _____
71EF60FA21034EC...
Lance Alstodt
Chief Executive Officer

Agreed:

DocuSigned by:
Francisco Silva

96ACAD65663446F...
Francisco Silva