

CERTIFICATE OF BLUE SKY UTILITY LLC

The undersigned authorized person of Blue Sky Utility LLC (the "Company"), pursuant to Section 6.1(e) of that certain Equity Capital Contribution Agreement (the "Agreement") dated as of November 6, 2017, by and among Blue Sky Utility, LLC, Blue Sky Utility Portfolio 2017 I, LLC, 344 Columbia Associates, LLC and Palm Drive Associates, LLC, does hereby certify as set forth below. Capitalized terms used herein but not defined shall have the meanings given in the Agreement.

1. Attached hereto as Attachment A is a true and correct copy of resolutions duly adopted by the members (the "Authorizing Body") of the Company dated as of October 31, 2017. Such resolutions constitute the only resolutions adopted by the Company's Authorizing Body approving the execution and delivery of the Agreement, the Investment Documents, the Financing Documents and the Project Documents to which Company is a party (as applicable) and the consummation of the transactions contemplated by such agreements, and such resolutions have not been amended, modified or rescinded and are in full force and effect on the date hereof.

2. The following persons are (i) duly elected, qualified and acting members, managers or officers of the Company in the capacity indicated or are otherwise authorized to execute and deliver documents on behalf of the Company for the purpose of binding the Company, and (ii) the signatures set forth after their names and titles are their true and genuine signatures:

Name	Title	Signature
Ran Bujanover	President	
Barend Venter	CEO	

3. Each representation and warranty of the Company set forth in the Agreement, the Investment Documents, the Financing Documents and the Project Documents to which Company is a party (as applicable) was and is true and correct, in each case both as of the date of the applicable documents and as of the date of this Certificate as though made on and as of the Date of this Certificate (or, in each case, if any such representation and warranty is expressly stated to have been made as of a specific date, then, for such representation and warranty, as of such specific date).

4. Company has performed and complied with, in all material respects, all covenants and agreements required by the Agreement, the Investment Documents, the Financing Documents and the Project Documents to which Company is a party (as applicable), in each case, which covenants and agreements were required to be performed or complied with by Company on or before the date of this Certificate.

5. Attached as Attachment B is a true and correct copy of each of the Company's organizational documents (e.g. Articles of Organization or Certificate of Formation and limited liability company operating agreement) each of which are in full force and effect as of the date of this Certificate. The Company is in good standing with its state of organization as of the date of this Certificate. The Company has ordered a certificate of such good standing from its state of organization and will deliver such certificate to Investors no later than November 6, 2017.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of November 6, 2017.



By:
Name: Ran Bujanover
Title: President

CERTIFICATION OF AUTHORIZED PERSON'S TITLE AND AUTHORITY

I, Barend Venter, CEO of the Company, do hereby certify that Ran Bujanover is the duly elected, qualified and acting President of the Company and that the signature set forth above his name is his genuine signature.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of November 6, 2017.



By:
Name: Barend Venter
Title: Member

Attachment A
Authorizing Resolutions

RESOLUTION APPROVING AUTHORIZATION FOR EXECUTION OF TAX EQUITY FINANCING

WHEREAS, Blue Sky Utility LLC wishes to execute the construction and operations of the Winery Solar Project ("Winery Project") and the Hanford Mall Solar Project ("Hanford Project") (collectively the "Projects") and securing financing ("Financing") a prerequisite for Projects execution.

WHEREAS, Blue Sky Utility Portfolio I 2017, LLC wishes to enter into the Equity Capital Contribution Agreement (the "Agreement") dated as of October 31, 2017, by and among Blue Sky Utility, LLC, Blue Sky Utility Portfolio I 2017, LLC, 344 Columbia Associates, LLC and Palm Drive Associates, LLC, does hereby certify as set forth below, provided here as Exhibit A.

WHEREAS, as required by the Agreement Blue Sky Utility LLC is required to authorize and approve the execution, delivery and performance of each Investment Document and Principal Project Document (capitalized terms not defined herein shall have the meaning provided in the Agreement);

NOW, THEREFORE, BE IT RESOLVED, that all Blue Sky Utility LLC authorizes and approves the execution, delivery and performance of each Investment Document and Principal Project Document for the benefit of the Agreement.

Dated: October 31, 2017



Yellow Tree Capital LLC
By: Ran Bujanover - Member



Barend Venter – Member

Attachment B
Organizational Documents

 <p>State of California Secretary of State</p> <p>LIMITED LIABILITY COMPANY ARTICLES OF ORGANIZATION</p> <p>A \$70.00 filing fee must accompany this form. IMPORTANT – Read Instructions before completing this form.</p>		File # <u>200913410294</u>
<p>ENDORSED - FILED in the office of the Secretary of State of the State of California MAY 11 2009</p> <p>This Space For Filing Use Only</p>		
ENTITY NAME (End the name with the words "Limited Liability Company," or the abbreviations "LLC" or "L.L.C." The words "Limited" and "Company" may be abbreviated to "Ltd." and "Co.", respectively.) 1. NAME OF LIMITED LIABILITY COMPANY BLUE SKY UTILITY LLC		
PURPOSE (The following statement is required by statute and should not be altered.) 2. THE PURPOSE OF THE LIMITED LIABILITY COMPANY IS TO ENGAGE IN ANY LAWFUL ACT OR ACTIVITY FOR WHICH A LIMITED LIABILITY COMPANY MAY BE ORGANIZED UNDER THE REVERLY-KILLA LIMITED LIABILITY COMPANY ACT.		
INITIAL AGENT FOR SERVICE OF PROCESS (If the agent is an individual, the agent must reside in California and both items 3 and 4 must be completed. If the agent is a corporation, the agent must have on file with the California Secretary of State a certificate pursuant to Corporations Code section 1505 and item 3 must be completed (leave item 4 blank)) 3. NAME OF INITIAL AGENT FOR SERVICE OF PROCESS KELLY WALLACE		
4. IF AN INDIVIDUAL, ADDRESS OF INITIAL AGENT FOR SERVICE OF PROCESS IN CALIFORNIA CITY STATE ZIP CODE 800 SCHOOL STREET # C NAPA CA 94558		
MANAGEMENT (Check only one) 5. THE LIMITED LIABILITY COMPANY WILL BE MANAGED BY: <input type="checkbox"/> ONE MANAGER <input type="checkbox"/> MORE THAN ONE MANAGER <input checked="" type="checkbox"/> ALL LIMITED LIABILITY COMPANY MEMBER(S)		
ADDITIONAL INFORMATION 6. ADDITIONAL INFORMATION SET FORTH ON THE ATTACHED PAGES, IF ANY, IS INCORPORATED HERIN BY THIS REFERENCE AND MADE A PART OF THIS CERTIFICATE		
EXECUTION 7. I DECLARE I AM THE PERSON WHO EXECUTED THIS INSTRUMENT, WHICH EXECUTION IS MY ACT AND DEED. 05/06/2009 _____ DATE		
 SIGNATURE OF ORGANIZER NASHIB UMER-ORGANIZER TYPE OR PRINT NAME OF ORGANIZER		
LLC (REV 04/2007) APPROVED BY SECRETARY OF STATE		

State of California

Secretary of State

CERTIFICATE OF STATUS

ENTITY NAME: BLUE SKY UTILITY LLC

FILE NUMBER: 200913410294
FORMATION DATE: 05/11/2009
TYPE: DOMESTIC LIMITED LIABILITY COMPANY
JURISDICTION: CALIFORNIA
STATUS: ACTIVE (GOOD STANDING)

I, ALEX PADILLA, Secretary of State of the State of California,
hereby certify:

The records of this office indicate the entity is authorized to
exercise all of its powers, rights and privileges in the State of
California.

No information is available from this office regarding the financial
condition, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this
certificate and affix the Great Seal
of the State of California this day of
October 4, 2017.

A handwritten signature in black ink that reads "Alex Padilla".

ALEX PADILLA
Secretary of State

NSS

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

OF

BLUE SKY UTILITY LLC

Dated as of October 28, 2015

THE SALE OF INTERESTS DESCRIBED IN AND REPRESENTED BY THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "*SECURITIES ACT*"), OR REGISTERED OR QUALIFIED UNDER ANY STATE SECURITIES LAWS IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION AND/OR QUALIFICATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. IN ADDITION, TRANSFER OF THE INTERESTS IS SUBJECT TO THE RESTRICTIONS ON TRANSFER AND OTHER TERMS AND CONDITIONS SET FORTH HEREIN. THE INTERESTS MAY NOT BE OFFERED FOR SALE OR SOLD EXCEPT (I) IN COMPLIANCE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN AND (II) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND/OR QUALIFICATION UNDER THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS OR UNDER CIRCUMSTANCES THAT DO NOT REQUIRE REGISTRATION OR QUALIFICATION UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS.

TABLE OF CONTENTS

	<u>Pages</u>
Article I DEFINITIONS	2
Section 1.1. Definitions	2
Section 1.2. References; Gender; Number; Certain Phrases	8
Article II FORMATION; OFFICES; TERM.....	8
Section 2.1. Formation and Continuation of the Company	8
Section 2.2. Name, Office and Registered Agent.....	8
Section 2.3. Purpose	9
Section 2.4. Term	9
Section 2.5. Organizational and Fictitious Name Filings; Preservation of Limited Liability.....	9
Section 2.6. No Partnership Intended.....	9
Article III RIGHTS AND OBLIGATIONS OF THE MEMBERS	14
Section 3.1. Members; Membership Interest	14
Section 3.2. Members; Membership Interest and the Financing Closing	15
Section 3.3. Meetings	15
Section 3.4. Management Rights.....	16
Section 3.5. Other Activities	16
Section 3.6. No Right to Withdraw	16
Section 3.7. Limitation of Liability of Members	17
Section 3.8. Deficit upon Liquidation	17
Section 3.9. Company Property; Membership Interests.....	17
Section 3.10. Retirement, Resignation, Expulsion, Bankruptcy or Dissolution of a Member.....	17
Section 3.11. Project Expansion..... <i>Error! Bookmark not defined.</i>	
Article IV CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS.....	18
Section 4.1. Capital Contributions	18
Section 4.2. Capital Accounts	18
Section 4.3. No Third Party Beneficiary	18
Article V ALLOCATIONS.....	19
Section 5.1. Profit and Loss Allocations	19
Section 5.2. Special Allocations..... <i>Error! Bookmark not defined.</i>	
Section 5.3. Tax Allocations	19
Section 5.4. Transfer or Change in Company Interest	20
Section 5.5. GAAP Allocations..... <i>Error! Bookmark not defined.</i>	
Article VI DISTRIBUTIONS.....	20
Section 6.1. Distributions.....	20
Section 6.2. Withdrawal of Capital	20
Section 6.3. Withholding Taxes	21
Section 6.4. Distributions in Kind.....	21

	<u>Pages</u>
Section 6.5. Limitation upon Distributions	21
Section 6.6. Proceeds from a Disposition of the Project Assets	21
Section 6.7. Net Proceeds from Project Debt..... Error! Bookmark not defined.	
Article VII ACCOUNTING AND RECORDS	22
Section 7.1. Fiscal Year.....	22
Section 7.2. Books and Records and Inspection	22
Section 7.3. Bank Accounts, Notes and Drafts	23
Section 7.4. Financial Statements	24
Section 7.5. Partnership Status and Tax Elections	24
Section 7.6. Company Tax Returns.....	24
Section 7.7. Tax Audits	25
Article VIII MANAGEMENT	26
Section 8.1. Manager.....	26
Section 8.2. Initial Appointment of the Manager.....	30
Section 8.3. Compensation of the Manager	30
Section 8.4. Removal or Resignation of the Manager.....	30
Section 8.5. Third Party Reliance.....	31
Section 8.6. Officers.....	31
Section 8.7. Contracts with Affiliates	31
Section 8.8. Insurance	32
Section 8.9. Duties; Indemnification.....	32
Section 8.10. Tax Credit Matters	33
Section 8.11. Budget Plan	33
Article IX TRANSFERS; RIGHT OF FIRST OFFER	34
Section 9.1. Prohibited Transfers	34
Section 9.2. Conditions to Transfer by Yellow Tree..... Error! Bookmark not defined.	
Section 9.3. Transfers by Barend	Error! Bookmark not defined.
Section 9.4. Right of First Offer..... Error! Bookmark not defined.	
Section 9.5. Admission.....	35
Section 9.6. No Effect	Error! Bookmark not defined.
Article X DISSOLUTION AND WINDING-UP	35
Section 10.1. Events of Dissolution	35
Section 10.2. Distribution of Assets.....	35
Section 10.3. De-Commissioning of the Project	36
Section 10.4. In-Kind Distributions	36
Section 10.5. Certificate of Cancellation	36
Article XI MISCELLANEOUS.....	36
Section 11.1. Notices.....	37
Section 11.2. Amendments.....	37
Section 11.3. Partition	37
Section 11.4. Waivers and Modifications	37

	<u>Pages</u>
Section 11.5. Severability.....	38
Section 11.6. Successors; No Third-Party Beneficiaries.....	38
Section 11.7. Entire Agreement	38
Section 11.8. Public Statements	38
Section 11.9. Governing Law.....	38
Section 11.10. Further Assurances.....	39
Section 11.11. Counterparts	39
Section 11.12. Confidentiality.....	39
Section 11.13. Joint Efforts	40
Section 11.14. Specific Performance	40
Section 11.15. Survival	41
Section 11.16. Conflicts of Interest.....	41

SCHEDULE & EXHIBITS

- Exhibit A Information on Members and Ownership of Membership Interests and Capital Account Balances as Prior to the Effective Date
- Exhibit A-1 Information on Members, Ownership of Membership Interests and Capital Account Balances at the Effective Date
- Exhibit A-2 Information on Members, Ownership of Membership Interests at the Step-Up Transfer Date
- Exhibit B Initial Budget Plan
- Exhibit C List of Existing Contracts with Affiliates
- Exhibit D Listing of Officers

**AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
BLUE SKY UTILITY LLC**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (this “*Agreement*”) of BLUE SKY UTILITY LLC, a California limited liability company (the “*Company*”), is made and entered into as of October 28, 2015 (the “*Effective Date*”), by and between Barend Venter (“*Barend*”), and Yellow Tree Capital LLC, a California limited liability company (“*Yellow Tree*” and collectively with Barend, the “*Members*”).

Recitals

A. The Company was formed by virtue of a Certificate of Formation (the “*Certificate of Formation*”), filed with the Secretary of State of the State of California on May 11, 2009, under the name BLUE SKY UTILITY LLC.

B. The Company has developed a pipeline of solar projects and a business offering focused on the Retail Real Estate industry (the “*Projects*”). The Project consists of pipeline developed in partnership with Gestamp Asetym Solar North America Inc. (the “*Gestamp Project*”) and Projects that are wholly developed by the Company

C. The Company wishes to raise capital for the continuation of the developments of the Projects and for the acquisition of the Gestamp Project.

D. The existing Limited Liability Company Agreement of the Company was entered into on May 11, 2009 (the “*Current Agreement*”) by Barend.

E. Immediately prior to the date hereof, Barend held 100% of the Membership Interests of the Company.

F. Pursuant to a certain Condition Precedent noted in the Agreement (i) Barend shall execute and deliver this Agreement, providing for the admission of Yellow Tree as a Member of the Company and (ii) the rights and obligations of the Membership Interests (as defined herein) shall be amended and restated to be Membership Interests of the Company having the rights and obligations as set forth in this Agreement.

continue the Company as a limited liability company under the Act upon the following terms and conditions:

ARTICLE I **DEFINITIONS**

Section 1.1. **Definitions.** Unless otherwise defined herein, capitalized terms used throughout this Agreement shall have the respective meanings set forth below:

“Accounting Firm” means the Company’s primary independent accounting firm, which shall be any nationally or regionally recognized firm of certified public accountants selected by the Managers.

“Act” means the California Revised Uniform Limited Liability Company Act, and any successor statute, as the same may be amended from time to time.

“Affiliate” means, with respect to any designated Person, any other Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such designated Person. The term “**control**” (including the terms “**controlled by**” or “**under common control with**”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise; provided, however, that, in any event, any Person that owns directly or indirectly fifty percent (50%) or more of the securities having ordinary voting power for the election of directors or other governing body of a corporation or fifty percent (50%) or more of the partnership or other ownership interests of any other Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person.

“Agreement” has the meaning set forth in the Preamble hereof, as the same may be amended, modified or supplemented from time to time.

“Appraisal Method” means, with respect to any determination of the fair market value of any asset of the Company or the Equity Interests, the fair market value thereof mutually agreed by Barend and Yellow Tree. If Barend and Yellow Tree are unable to agree as to such fair market value within ten (10) Business Days from the date initial discussions relating to the valuation commence, then Barend and Yellow Tree shall mutually designate an arbitrator and each submit to such arbitrator a proposed fair market value for the relevant asset(s) or Equity Interests within ten (10) Business Days after the date of the designation of such arbitrator. The determination by such arbitrator of the fair market value therefor, which shall be either the fair market value proposed by Barend or the fair market value proposed by Yellow Tree, but no other amount, shall be final and binding upon Yellow Tree and Barend. If Yellow Tree and Barend fail to agree upon the choice of such arbitrator within ten (10) Business Days, then Barend shall provide to Yellow Tree a list of three arbitrators who are qualified to appraise the value of solar photovoltaic power generation systems and have at least five (5) years of experience appraising the value of solar photovoltaic power generation systems. Yellow Tree shall select the arbitrator,

who shall be any one of the three arbitrators proposed by Barend and shall be final and binding upon Yellow Tree and Barend. If Barend fails to provide a list of proposed arbitrators within ten (10) Business Days after the disagreement of the arbitrator, Yellow Tree may appoint an arbitrator and such appointment shall be final and binding upon Yellow Tree and Barend.

“**Bankruptcy**” of a Person means the occurrence of any of the following events: (i) the filing by such Person of a voluntary case or the seeking of relief under any chapter of Title 11 of the United States Bankruptcy Code, as now constituted or hereafter amended (the “**Bankruptcy Code**”), (ii) the making by such Person of a general assignment for the benefit of its creditors, (iii) the admission in writing by such Person of its inability to pay its debts as they mature, (iv) the filing by such Person of an application for, or consent to, the appointment of any receiver or a permanent or interim trustee of such Person or of all or any portion of its property, including the appointment or authorization of a trustee, receiver or agent under applicable Law or under a contract to take charge of its property for the purposes of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of its creditors, (v) the filing by such Person of a petition seeking a reorganization of its financial affairs or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt or liquidation Law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such Law or statute, (vi) an involuntary case is commenced against such Person by the filing of a petition under any chapter of Title 11 of the Bankruptcy Code and within sixty (60) days after the filing thereof either the petition is not dismissed or the order for relief is not stayed or dismissed, (vii) an order, judgment or decree is entered appointing a receiver or a permanent or interim trustee of such Person or of all or any portion of its property, including the entry of an order, judgment or decree appointing or authorizing a trustee, receiver or agent to take charge of the property of such Person for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the creditors of such Person, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) days, or (viii) an order, judgment or decree is entered, without the approval or consent of such Person, approving or authorizing the reorganization, insolvency, readjustment of debt or liquidation of such Person under any such Law or statute, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) days.

“**Budget Plan**” has the meaning set forth in the definition of “**Net Cash Flow**” in Section 1.1.

“**Business Day**” means any day other than Saturday, Sunday or any day that is a legal holiday or a day on which banking institutions in New York and Delaware are authorized by Law or governmental action to close.

“**Capital Account**” has the meaning set forth in Section 4.2(a).

“**Capital Contribution**” means, with respect to any Member, the amount of money and Gross Asset Value of any property contributed to the Company with respect to the Membership Interest in the Company held or purchased by such Member.

“Certificate of Cancellation” has the meaning set forth in Section 10.5(a).

“Certificate of Formation” has the meaning set forth in the Recitals.

“Claims” means all claims, suits, demands, injunctions, actions, causes of action, assessments, cleanup and remedial obligations, judgments, awards, liabilities, losses (including amounts paid in settlement of claims), damages (including any consequential, punitive, incidental or special damages recovered by any third party), fines, fees, taxes, penalties, costs and expenses of every kind and character (including litigation costs and reasonable attorneys' and

“Code” means the United States Internal Revenue Code of 1986, as amended from time to time.

“Company” has the meaning set forth in the Preamble.

“Company Tax Returns” has the meaning set forth in Section 7.6.

“Confidential Information” has the meaning set forth in Section 11.12.

“Consultation” or ***“Consult”*** means to confer with and reasonably consider and take into account the reasonable suggestions, comments or opinions of another Person.

“Current Agreement” has the meaning set forth in the Recitals.

“Depreciation” means for each Fiscal Year or part thereof, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable for United States federal income Tax purposes with respect to an asset for such Fiscal Year or part thereof; except that if the Gross Asset Value of an asset differs from its adjusted basis for United States federal income Tax purposes anytime during such Fiscal Year, the depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof shall be an amount which bears the same ratio to such Gross Asset Value as the United States federal income Tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or part thereof bears to such adjusted Tax basis. If such asset has a zero adjusted Tax basis, Depreciation with respect to such asset shall be determined under a method reasonably selected by the Manager with the consent of Yellow Tree.

“Disqualified Person” means (a) any federal, state or local government (or any political subdivision, agency or instrumentality thereof); (b) any foreign person or entity (as defined in Section 168(h)(2)(C) of the Code); (c) any organization described in Section 501(c) of the Code and exempt from Tax under Section 501(a) of the Code; (d) any organization otherwise exempt from Taxation under Chapter 1 of the Code; (e) any other Person that is ineligible to receive the Tax Credit under Section 48 of the Code and (f) any partnership or other pass-through entity (including a single-member disregarded entity), any partner (or other holder of an equity or profits interest) of which is a Person identified in clauses (a) through (e).

“Effective Date” has the meaning set forth in the Preamble.

“Equity Interest” means (i) any capital stock of a corporation, any partnership interest, any limited liability company interest and any other equity interest; (ii) any security or right convertible into, exchangeable for, or evidencing the right to subscribe for any such stock, equity interest or security referred to in clause (i) and (iii) any stock appreciation right, contingent value right or similar security or right that is derivative of or otherwise gives any Person the right to receive any economic benefit or right similar to or derived from any such stock, equity interest or security referred to in clause (i) or (ii).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means any entity, trade or business, whether or not incorporated, which together with another entity, trade or business, would be deemed a “single employer” within the meaning of Section 4001 of ERISA or Sections 414(b), (c), (m) or (o) of the Code.

“FERC” means the Federal Energy Regulatory Commission.

“Fiscal Year” has the meaning set forth in Section 7.1.

“GAAP” means United States generally accepted accounting principles as in effect from time to time, consistently applied throughout the applicable period.

“Governmental Entity” means any domestic or foreign governmental or regulatory authority, agency, commission, body, court or other legislative, executive or judicial governmental entity.

“Gross Asset Value” means, with respect to any asset, the asset’s adjusted Tax basis for federal income Tax purposes.

“IRS” means the Internal Revenue Service.

“Laws” means, collectively, any federal, state, local or foreign law, statute or ordinance, common law, or any rule, regulation, standard, judgment, order, writ, injunction, decree, arbitration award, agency requirement, license or Permit issued, promulgated, enforced or entered into by any Governmental Entity.

“Manager” or **“Managers”** means Barend and Yellow Tree, in their capacity as Managers of the Company under this Agreement, or such other Person(s) that are appointed pursuant to and in accordance with the terms of this Agreement to manage and run the day-to-day operations of the Company. The Manager is a “manager” of the Company within the meaning of the Act.

“Member” or **“Members”** means the **“Members”** (as such term is defined in the Preamble of this Agreement) in their capacity as members of the Company within the meaning of the Act,

and any other Person that has been admitted as a member of the Company pursuant to the terms hereof.

“Membership Interest” means the limited liability company interest of a Member in the Company, which shall consist of the Member’s Capital Account and rights to an allocation of income, gain, credit, deduction and loss and to distributions of the Company, in each case as herein provided, and which interest entitles such Member to receive information and to consent to or approve such actions or omissions of the Company or another Member with respect to which the consent or approval of such Member is permitted or expressly required hereunder or required under the Act, and all other rights and obligations of such Member

“Net Cash Flow” means, with respect to any period, cash receipts of the Company and funds released from, or reductions to, established Company reserves, decreased by (i) cash expenses, (ii) amortization and other payments required under any financing agreement and (iii) capital expenditure payments to the extent not paid from borrowings from financing agreements, pursuant to a budget plan pre-approved by the Members in accordance with Section 8.11 (the “**Budget Plan**”), and (iv) funds set aside to establish Company reserves and additions to Company reserves established in accordance with the Budget Plan.

“**Notice**” has the meaning set forth in Section 11.1.

“**Officers**” has the meaning set forth in Section 8.6.

“**Permit**” means any authorization, license, certification, approval, consent, registration or permit issued or granted by or under the authority of any Governmental Entity or pursuant to any Laws.

“**Permitted Investments**” means (i) domestic or eurodollar time deposits, money market instruments or certificates of deposit with banks rated at least “A” by Standard & Poor’s Ratings Services or Moody’s Investors Service, Inc., (ii) commercial paper of industrial corporations rated at least “A-1” by Standard & Poor’s Ratings Services or “P-1” by Moody’s Investors Service, Inc., (iii) direct obligations of, or obligations unconditionally guaranteed by, the United States of America or an agency or instrumentality thereof and backed by the full faith and credit of the United States of America or (iv) mutual funds that invest primarily in the securities described in (i) through (iii) above.

“**Person**” means any natural person, corporation, company, partnership (general or limited), limited liability company, trust or other entity.

“**Project**” has the meaning set forth in the Recitals.

“**Proposal**” has the meaning set forth in Section 11.2(b).

“**Prudent Industry Practice**” means any of the practices, methods and acts engaged in or approved by managers of independent power generation facilities in North America similar in

size and type to the Project during the relevant time period, or any of the practices, methods and acts which, in the exercise of commercially reasonable judgment in light of the facts known at the time a decision was made by the Company, the Manager or any Officer on behalf of the Company, could have been expected to accomplish the desired result at a reasonable cost consistent with good management practices utilized by similar facilities in the independent power industry. Prudent Industry Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in North America as applicable to the management of independent power facilities.

"PURPA" means Public Utility Regulatory Policies Act of 1978, as amended, and FERC's implementing regulations related thereto.

"Qualifying Facility" or "QF" means a qualifying small power production facility as defined under PURPA and 16 USC §796(17)(C).

"Recapture Event" means an event that causes any disallowance, denial or recapture (whether in whole or in part) of a Tax Credit claimed by the Company by the United States Department of the Treasury, the IRS, or any other Governmental Entity.

"Representatives" means, with respect to any Person, the managing member(s), officers, directors, employees, representatives or agents (including investment bankers, financial advisors, attorneys, accountants, brokers and other advisors) of such Person, to the extent that such officer, director, employee, representative or agent of such Person is acting in his or her capacity as an officer, director, employee, representative or agent of such Person.

"Barend" has the meaning set forth in the Preamble.

"Tax" (and, with correlative meaning, "**Taxes**" and "**Taxable**") means:

(a) any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, excise, franchise, net worth, employment, payroll withholding, alternative or add-on minimum, ad valorem, transfer, stamp, or environmental tax, or any other tax, custom, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount imposed by any Governmental Entity and

(b) any liability for the payment of amounts with respect to payment of a type described in clause (a), including as a result of being a member of an affiliated, consolidated, combined or unitary group, as a result of succeeding to such liability as a result of merger, conversion or asset transfer or as a result of any obligation under any tax sharing arrangement or tax indemnity agreement.

"Tax Credits" means the investment Tax credits provided by Section 48(a)(1) of the Code or any successor provision thereto.

“Tax Matters Partner” has the meaning set forth in Section 7.7(a).

“Tax Return” means any return, report or similar statement required to be filed with respect to any Taxes (including any attached schedules) for any Taxable period after the Effective Date, including any information return, claim for refund, amended return or declaration of estimated Tax.

“Termination Date” has the meaning set forth in Section 2.4.

“Transfer” has the meaning set forth in Section 9.1.

“Treasury Regulations” means the regulations promulgated under the Code, as such regulations are in effect on the date hereof.

“Yellow Tree” has the meaning set forth in the Preamble.

Section 1.2. **References; Gender; Number; Certain Phrases.** All references in this Agreement to an “Article,” “Section,” “Exhibit” or “Schedule” are to an Article, Section, Exhibit or Schedule of this Agreement, unless the context requires otherwise. The words “this Agreement,” “hereof,” “hereunder,” “herein,” “hereby,” “thereof,” “thereunder,” or words of similar import refer to this Agreement as a whole and not to a particular Article, Section, subsection, clause or other subdivision hereof, unless the context requires otherwise. Whenever the context requires, the words used herein include the masculine, feminine and neuter gender, and the singular and the plural. The words “include,” “includes” and “including” mean “include, without limitation,” “includes, without limitation,” and “including, without limitation,” respectively.

ARTICLE II FORMATION; OFFICES; TERM

Section 2.1. **Formation and Continuation of the Company.** The Company was formed on May 11, 209, by virtue of the filing of a Certificate of Formation with the Secretary of State of the State of California. The Members hereby acknowledge the continuation of the Company as a limited liability company pursuant to the Act. This Agreement is effective as of the Effective Date and supersedes and replaces entirely all prior agreements governing the operations of the Company and the rights and obligations of its Members. The rights and liabilities of the Members shall be as provided in the Act, except as otherwise provided herein. As of the Effective Date, all powers of persons designated as “authorized persons” under the Act shall cease, and the Manager hereupon becomes the designated “authorized person” and shall continue as the designated “authorized person” within the meaning of the Act.

Section 2.2. **Name, Office and Registered Agent.**

(a) The name of the Company shall be “BLUE SKY UTILITY LLC” or such other name or names as may be agreed to by the Members from time to time; provided, however,

that the name shall always contain the words "Limited Liability Company" or the abbreviation "L.L.C." or the designation "LLC." The principal office of the Company shall be 1129 Westview Dr., Napa CA 94558. The Managers may at any time mutually agree to change the location of such office to another location, provided that the Managers give prompt written notice of any such change to all Members and the registered agent of the Company.

(b) The registered agent of the Company for service of process is Kelly R. Wallace whose address for service of process is 1207 Randolph St., Napa CA 94559. The registered office and registered agent may be changed by the Managers at any time in accordance with the Act provided that the Managers give prompt written notice of any such change to all Members. The registered agent's primary duty as such is to forward to the Company at its principal office and place of business any notice that is served on it as registered agent.

Section 2.3. Purpose. The purpose and business of the Company is to own, develop, construct, operate, maintain, obtain financing for, and sell or otherwise dispose of the Projects (and the assets connected therewith) and to operate the Projects and sell the output of the Projects, and otherwise to do all things reasonably necessary, advisable or appropriate in connection therewith. The Company may engage in any kind of activity and perform and carry out contracts of any kind necessary to, or in connection with or convenient or incidental to, the accomplishment of such purpose, so long as such activities and contracts may be lawfully carried on or performed by a limited liability company under the Laws of the State of California.

Section 2.4. Term. The term of the Company commenced on May 11, 2009, and shall continue until the date that the Company is dissolved pursuant to Section 10.1 (the "**Termination Date**").

Section 2.5. Organizational and Fictitious Name Filings; Preservation of Limited Liability. The Managers shall cause the Company to register as a foreign limited liability company and file such fictitious or trade names, statements or certificates in such jurisdictions and offices as necessary or appropriate for the conduct of the Company's operation of its business. The Managers may take any and all other actions as may be reasonably necessary or appropriate to perfect and maintain the status of the Company as a limited liability company or similar type of entity under the Laws of Delaware and any other state or jurisdiction other than Delaware in which the Company engages in business, to continue the Company as a limited liability company, and to protect the limited liability of the Members as contemplated by the Act.

Section 2.6. No Partnership Intended. Other than for purposes of determining the status of the Company under the Code and the applicable Treasury Regulations and under any applicable state, municipal or other income Tax Law or regulation, the Members intend that the Company not be a partnership, limited partnership or joint venture and this Agreement shall not be construed to suggest otherwise.

Section 2.7. Representation and Warranties of Members. At the Effective Date Members will provide Representation and Warranties pursuant to Section 2.7 and will not cause

to breach any of these Representations and Warranties until this agreement becomes effective Pursuant to the Condition Precedents.

(a) Representations And Warranties Of Barend; Barend hereby represents and warrants to Yellow Tree as of the Effective Date (except for representations and warranties that expressly speak only as of a specific date, which representations and warranties are made only as of such date) as follows:

(i) The Company (i) is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (ii) has all requisite limited liability company power and authority to own, pledge or dispose of the Membership Interests and to carry on its business as presently conducted and (iii) is qualified to do business and is in good standing as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except in the case of clause (ii) or (iii) where the failure to be so qualified or in good standing, or to have such power or authority, would not, individually or in the aggregate, reasonably be likely to prevent, materially delay or materially impair, the consummation of the transactions contemplated by this Agreement.

(ii) Authority; Approval. Barend (a) has all requisite limited liability company power and authority and (b) has taken all limited liability company action necessary in order to execute, deliver and perform its obligations under the Agreement. This Agreement has been duly executed and delivered by Barend and constitutes a valid and binding agreement of Barend, enforceable against Barend in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the "Bankruptcy and Equity Exception").

(iii) As of the Effective Date, Barend is the record and beneficial owner of one hundred percent (100%) of the Membership Interest of the Company, free and clear of any Liens (other than any transfer restrictions imposed by federal or state securities Laws). As of the Effective Date, none of the Membership Interest have been issued in violation of any purchase or call option, right of first refusal, subscription right, preemptive right or any similar right. As of the Effective Date, none of the Membership Interest are subject to any voting trust agreement or other Contract or arrangement restricting or otherwise relating to the voting, allocation and distribution rights, transfer rights. There are no phantom stock or similar rights or commitments of any character providing economic benefits based, directly or indirectly, on the value or price of the Membership Interest, as of the Effective Date. There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights or Contracts of any character under which may become obligated to issue, grant, award, convey or sell, or give any Person, a right to subscribe for or acquire, or in any way dispose of any Membership Interests.

(iv) No notices, reports or other filings are required to be made by Barend nor are any consents, registrations, approvals, Permits or authorizations required to be

obtained by Barend from, any Governmental Entity in connection with the execution, delivery and performance of this Agreement.

(v) The execution, delivery and performance of this Agreement by Barend does not, and the consummation of the transactions contemplated hereby will not, constitute or result in (i) a breach or violation of, or a default under Barend's or any Affiliate of Barend's Organizational Documents or (ii) with or without notice, lapse of time or both, a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under or the creation of a Lien on any of the assets pursuant to any Contract binding upon Barend or any Affiliate of Barend.

(vi) Barend has provided to Yellow Tree true, correct and complete copies of the unaudited statement of operations, changes in members' equity and cash flows of the Project Entity for the fiscal year ended December 31, 2014, including the unaudited balance sheet as at the end of such period, together with the notes and schedules thereto (the "Unaudited Financial Statements") and all Tax Filings up till the end of the last tax year.

(vii) The Books and Records of the Company are accurate and complete in all material respects and are maintained in all material respects in accordance with applicable Laws.

(viii) Absence of Undisclosed Liabilities. The Company has no material Liability relating to the Project (and no basis exists for any such Liability) except for the following:

1) Barend Affiliate BPi right of first refusal on Company EPC contracts as defined in section 8.7.

2) NDA, Commitment and JV agreements with other entities as listed in Exhibit C (electronic access to these documents has been provided).

(ix) Litigation; Proceedings. There is no Action pending or, to the Knowledge of Barend, threatened against, involving or relating to the Company or the Project or any Project Contract, nor has any Governmental Entity indicated in writing to Barend an intention to initiate any Action. To the Knowledge of Barend, there are no pending plans, proposals, studies or investigations by any Governmental Entity that could reasonably be expected to have a Material Adverse Effect.

(x) Employee Benefits. The Company has never had any employees, nor maintains, sponsors or contributes to, nor has ever maintained, sponsored or contributed to, any employee incentive, compensation or benefit plans or arrangements (including any "employee welfare plans" within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") or "employee pension benefit plans" within the meaning of Section 3(2) of ERISA), nor has either Target Entity ever paid (or incurred any Liability in respect of) any wages within the meaning of Section 3401(a) of the Code

(determined without regard to any of the exceptions set forth therein). Neither Target Entity nor any other entity under common control with either Target Entity would be deemed a “single employer” within the meaning of Sections 414(b), (c), (m) or (o) of the Code (an “ERISA Affiliate”) has, during the period since each Target Entity has been formed, maintained, sponsored, contributed to, or incurred any Liability or obligation in respect of, any “single employer”, “multiple employer” or “multi-employer” employee pension plan subject to Title IV of ERISA or Section 412 of the Code (each, an “ERISA Pension Plan”), including any Liability under, arising out of or by operation of Title IV of ERISA and no fact or event exists that would give rise to any such Liability.

(xi) Except as has been cured or otherwise resolved, the business of the Company has not been, and is not being, conducted in material violation of any Laws.

(xii) No investigation or review by any Governmental Entity with respect to the Company is pending or, to the Knowledge of Barend, threatened, nor has any Governmental Entity indicated an intention to conduct the same.

(xiii) (1) From the period since its formation through the Effective Date, the Company has been treated as an entity disregarded from its owner for federal income Tax purposes; (2) all income Tax Returns and all other material Tax Returns required to be filed on or before the Effective Date by or with respect to the Company (including in respect of the assets of the Company) have been duly and timely filed on or before the Effective Date; (3) the Company has fully and timely paid all Taxes (whether or not shown on such Tax Returns) due and payable;

(xiv) The Company has no tax indebtedness as of the Effective Date

(xv) Solvency. No petition or notice has been presented, no order has been presented, no order has been made and no resolution has been passed for the bankruptcy, liquidation, winding-up or dissolution of the Company. No receiver, trustee, custodian or similar fiduciary has been appointed over the whole or any part of the assets or the income of the Company. Neither does the Company have any plan nor intention of, nor received any notice that any other Person has any plan or intention of, filing, making or obtaining any such petition, notice, order or resolution or of seeking the appointment of a receiver, trustee, custodian or similar fiduciary. The Company is solvent and has or prior to and on the Effective Date will have sufficient assets and capital to carry on its business as conducted as of the date hereof.

(xvi) Compliance with Anti-Corruption Laws. The Company (a) has not used or is not using any corporate funds for any illegal contributions, gifts, entertainment or other unlawful expenses relating to political activity, (b) has not used or is not using any corporate funds for any direct or indirect unlawful payments to any foreign or domestic governmental officials or employees, (c) has not violated or is not violating any provision of any applicable anti-corruption Law, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, (d) has not established or maintained, or is not maintaining, any unlawful fund of

corporate monies or other properties or (e) has not made any bribe, unlawful rebate, payoff, influence payment, kickback or other unlawful payment of any nature.

(xvii) Brokers and Finders. Neither Barend nor the Company has employed any broker or finder or incurred any Liability for any brokerage fees, commissions or finder's fees in connection with the Projects.

(b) Representations And Warranties Of Yellow Tree; Yellow Tree hereby represents and warrants to Barend as of the Effective Date (except for representations and warranties that expressly speak only as of a specific date, which representations and warranties are made only as of such date) as follows:

(i) Organization; Good Standing and Qualification. Yellow Tree (a) is a legal entity duly organized, validly existing and in good standing as a limited liability company under the Laws of the State of California, (b) has all requisite limited liability company power and authority to own, lease and operate its properties and assets, to pledge or dispose of its shares and to carry on its business as presently conducted and (c) is duly qualified to do business as a limited liability company and is in good standing as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except in the case of clause (b) or (c) where the failure to be so qualified or in good standing or to have such power or authority would not, individually or in the aggregate, reasonably be likely to have a Material Adverse Effect. Buyer has made available to Seller complete and correct copies of its Organizational Documents, each as amended to the date this representation is being made, and each as so delivered is in full force and effect.

(ii) Authority; Approval. Yellow Tree (a) has all requisite limited liability company power and authority and (b) as of the Closing Date, has taken all limited liability company action necessary in order to execute, deliver and perform its obligations under the Agreement to which it is a party. This Agreement has been duly executed and delivered by Yellow Tree and constitutes a valid and binding agreement of Yellow Tree, enforceable against Yellow Tree in accordance with its terms, subject to the Bankruptcy and Equity Exception.

(iii) No notices, reports or other filings are required to be made by Yellow Tree with, nor are any consents, registrations, approvals, Permits or authorizations required to be obtained by Yellow Tree from, any Governmental Entity in connection with the execution, delivery and performance of this Agreement by Yellow Tree or the consummation of the transactions contemplated hereby, except those that the failure to make or obtain would not, individually or in the aggregate, reasonably be likely to (i) prevent, materially delay or materially impair the consummation of the transactions contemplated hereby, or (ii) have a Material Adverse Effect.

(iv) The execution, delivery and performance of this Agreement by Yellow Tree do not, and the consummation of the transactions contemplated hereby will not, constitute or result in (i) a breach or violation of, or a default under, Yellow Tree's

Organizational Documents or (ii) with or without notice, lapse of time or both, a breach or violation of, a termination (or right of termination) or default under, the creation or acceleration of any obligations under or the creation of a Lien on any of the assets of Yellow Tree pursuant to any Contract binding upon Yellow Tree or under any Law to which Yellow Tree is subject or (iii) any change in the rights or obligations of any party under any Contract binding upon Yellow Tree, except, in the case of clause (ii) or (iii) above, for any such breach, violation, termination, default, creation, acceleration or change that would not, individually or in the aggregate, reasonably be likely to have a Material Adverse Effect.

(v) Litigation; Proceedings. There is no Action pending or, to the Knowledge of Yellow Tree, threatened in writing against, involving or relating to Yellow Tree, nor has any Governmental Entity indicated in writing to Yellow Tree an intention to initiate any Action, which, in each case, could reasonably be expected to adversely affect its ability to perform its obligations under the Agreement

(vi) Brokers and Finders. Yellow Tree has not employed any broker or finder or incurred any Liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated for which the Company would have any Liability.

ARTICLE III RIGHTS AND OBLIGATIONS OF THE MEMBERS

Section 3.1. Members; Membership Interest.

(a) The Company shall have as Members only those Persons as may be properly admitted as Members pursuant to the terms hereof in addition to or as assignees of the Members. Barend hereby continues as a Member and Yellow Tree is hereby admitted as a Member as an assignee of Barend's Interests. The name, address, class of Membership Interest, percentage of class held, and initial Capital Account balances of each Member are set forth in Exhibit A attached hereto. The Manager, without the consent of any other Person, is hereby authorized to, and shall, update Exhibit A from time to time as necessary to reflect accurately the information therein. Any reference in this Agreement to Exhibit A shall be deemed to be a reference to Exhibit A as amended and in effect from time to time. If a Member Transfers all of its Membership Interest to another Person pursuant to and in accordance with the terms hereof, the transferor shall automatically cease to be a Member.

(b) The Membership Interests shall (i) have the rights and obligations ascribed to such Membership Interests in this Agreement and the Act, (ii) be transferable only upon recordation of such Transfer in the register of Membership Interest in Exhibit A and (iii) be personal property. Certificates representing ownership of Membership Interests in the Company shall be issued by the Manager.

(c) The Company shall be entitled to treat the registered holder of a Membership Interest, as shown in Exhibit A, as a Member for all purposes of this Agreement, except that the Managers may record in Exhibit A any security interest of a Secured Party pursuant to any security interest permitted by this Agreement. Each Membership Interest shall be a “security” governed by and within the meaning of Article 8 of the Uniform Commercial Code (including Section 8-102(a)(15) thereof) as in effect in any jurisdiction in which it has been adopted, including, without limitation, Article 8 of the Delaware Uniform Commercial Code, as currently in effect.

(d) The execution of this Agreement by Barend and Yellow Tree shall be simultaneous with the Companies execution of purchase agreement with Vert for the Projects contemplated therein. Upon execution of this Agreement and the purchase agreement with Vert for the Projects Yellow Tree will be admitted to the Company as Member and will enjoy the same rights and be subject to the same obligations as Barend hereunder. Barend shall transfer to Yellow Tree the Membership Interest as set forth in Exhibit A-1 attached hereto. The Manager shall update Exhibit A to reflect the information set forth in Exhibit A-1, in accordance with the requirements of Section 3.1(a).

Section 3.2. Transfer of Membership Interest During Operations. Upon the earlier of (a) the date in which the Company has distributed to its Members total aggregate proceeds, either through dividends or any other form of transfer, of more than Thirty Million Dollars (\$30,000,000.00), or (b) the date in which the fair market value of the Company is assessed, through the Appraisal Method to be higher than One Hundred and Twenty Million Dollars (\$120,000,000.00) (the “**Step-Up Transfer Date**”), Barend shall transfer to Yellow Tree the Membership Interest as set forth in Exhibit A-2 attached hereto. The Manager shall update Exhibit A to reflect the information set forth in Exhibit A-2, in accordance with the requirements of Section 3.1(a). Yellow Tree shall be entitled to all the prorated Member Proceeds from the Step-Up Transfer Date onwards.

Section 3.3. Meetings.

(a) Except as otherwise permitted by this Agreement, all actions of the Members shall be taken at meetings of the Members which may be called from time to time by the Manager for any reason and shall be called by the Manager within ten (10) days following the written request of a Member. The Members may conduct at such meeting any Company business that is permitted under the Act or this Agreement. Meetings shall be at a reasonable time and place (within or outside of the State of Delaware). Accurate minutes of any meeting shall be taken and filed with the minute books of the Company. Promptly following each meeting, the minutes of the meeting shall be sent to the Manager and each Member.

(b) With respect to meetings of the Members, the presence in person or by proxy of all Members shall constitute a quorum for purposes of transacting business at any meeting of the Members. Except as otherwise provided herein, with respect to those matters required or permitted to be voted upon by the Members, the affirmative vote of all of the then outstanding Membership Interests shall be required to approve any such matter, in addition to

any other approval required by this Agreement or the Act. Members may participate in a meeting of the Members by means of conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other or by any other means permitted by Law. Such participation shall constitute presence in person at such meeting.

(c) Written notice stating the place, day and hour of the meeting of the Members, and the purpose or purposes for which the meeting is called, shall be delivered either personally, via electronic mail or facsimile or by mail, by or at the direction of the Manager, to each Member of record entitled to vote at such meeting not less than five (5) days nor more than thirty (30) days prior to the meeting. Notwithstanding the foregoing, meetings of the Members may be held without notice so long as all the Members are present in person or by proxy. The attendance of any Member at a meeting shall constitute waiver of notice of such meeting, except when a Member attends the meeting for the express purpose of objecting to the transactions being conducted.

(d) Except as otherwise provided in this Agreement, any action may be taken by the Members without a meeting if such action is authorized or approved by the prior written consent of all of the Members entitled to authorize or approve the action. In no instance where action is authorized by written consent pursuant to this Section 3.3(d) need a meeting of Members be called or noticed; provided, however, a copy of the action taken by written consent must be sent promptly to all Members and all actions by written consent shall be filed with the minute books of the Company.

Section 3.4. Management Rights. Except as otherwise provided herein, and for the avoidance of doubt, except for the Manager when acting in its capacity as the managing member of the Company pursuant hereto, no Member shall have any right, power or authority to take part in the management or control of the business of, or transact any business for, the Company, to sign for or on behalf of the Company or to bind the Company in any manner whatsoever. Neither the Manager nor any Member shall hold out or represent to any third party that any Member, except the Manager acting in its capacity as the managing member of the Company pursuant hereto, has any such power or right or that any Member is anything other than a member in the Company. A Member shall not be deemed to be participating in the control of the business of the Company by virtue of its possessing or exercising any rights set forth in this Agreement or the Act or any other agreement relating to the Company.

Section 3.5. Other Activities. Notwithstanding any duty otherwise existing at Law or in equity, each Member, the Manager and their Affiliates may engage in or possess an interest in other business ventures of every nature and description, independently or with others, except if such activities compete directly with the business of the Company, and neither the Company nor any of the Members shall have any rights by virtue of this Agreement in and to such other business ventures or the profits derived from them.

Section 3.6. No Right to Withdraw. Except as otherwise provided in this Agreement, no Member shall have any right to voluntarily resign or otherwise withdraw from the Company

without the prior written consent of all remaining Members of the Company, in their sole and absolute discretion.

Section 3.7. Limitation of Liability of Members. Each Member's liability shall be limited as set forth in the Act and other applicable Law. Except as otherwise required by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and the Members shall not be obligated personally for any of such debts, obligations or liabilities solely by reason of being a Member of the Company. To the fullest extent permitted by Law, in no event shall any Member or Manager be liable under this Agreement to another Member for any lost profits or any consequential, punitive, special or incidental damages incurred by such Member arising from a breach of this Agreement. Notwithstanding anything to the contrary, each Member or Manager shall (A) be liable to any other party hereto for lost Tax Credits or other Tax benefits due to (i) a material breach by such Member or Manager of this Agreement or (ii) any fraud, gross negligence or willful misconduct of such Member or Manager and (B) retain all liabilities incurred in connection with or arising out of any "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) subject to Title IV of ERISA that is maintained, sponsored or contributed to (or with respect to which any liability or obligation is incurred by operation of Title IV of ERISA) by that Member or its ERISA Affiliates, and shall indemnify and hold harmless each other Member against such liability. Except as set forth in the Transaction Documents, each Member acknowledges that none of the Company, the Manager or the other Members have made any representation or warranty with respect to such Member's or the Company's eligibility to claim Tax Credits or the availability of any other Tax benefits or savings.

Section 3.8. Deficit upon Liquidation. Except to the extent of any Limited DRO that a Member may be obligated to restore and as otherwise provided by Law with respect to third-party creditors of the Company, upon the dissolution, liquidation, winding-up or termination of the Company, none of the Members shall be liable to the Company, to the other Members, to the creditors of the Company or to any other third party for or on account of any deficit in its Capital Account, nor shall such deficits be deemed assets of the Company.

Section 3.9. Company Property; Membership Interests. All property owned by the Company, whether real or personal, tangible or intangible and wherever located, shall be deemed to be owned by the Company and no Member, individually, shall have any ownership of such property. The Membership Interests shall constitute personal property.

Section 3.10. Retirement, Resignation, Expulsion, Bankruptcy or Dissolution of a Member. The retirement, resignation, expulsion, Bankruptcy or dissolution of a Member shall not, in and of itself, dissolve the Company. The personal representative of the bankrupt Member shall, for the purpose of settling the estate, have all of the rights of such Member, including the same rights and subject to the same limitations that such Member would have had under the provisions of this Agreement to Transfer its Membership Interest. The personal representative of a Member shall not become a substituted Member except as provided in this Agreement.

ARTICLE IV CAPITAL CONTRIBUTIONS; CAPITAL ACCOUNTS

Section 4.1. Capital Contributions. As of the date hereof, the Members shall be deemed to have made Capital Contributions to the Company as set forth in Exhibit A hereto. No further Capital Contributions shall be required or permitted from the Members following the Effective Date unless all of the Members consent thereto in writing.

Section 4.2. Capital Accounts.

(a) There shall be established and maintained throughout the full term of the Company in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv) for each Member, a capital account (a “*Capital Account*”) which shall be credited with (i) such Member’s Capital Contributions, (ii) allocations of income and gain to such Member pursuant to Section 5.1 and Section 5.2, (iii) the amount of any Company liabilities assumed by such Member or which are secured by any property distributed by the Company to such Member and (iv) such Member’s share of any upward basis adjustment caused by a recapture of a Tax Credit as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(j). Each Member’s Capital Account shall be debited with (v) the amount of cash and the Gross Asset Value of other property distributed to such Member, (vi) allocations of deductions and losses to such Member pursuant to Section 5.1 and Section 5.2, (vii) the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company and (viii) such Member’s share of any downward basis adjustment attributable to a Tax Credit as described in Treasury Regulations Section 1.704-1(b)(2)(iv)(j).

(b) The Members acknowledge and agree that the Capital Account balances of each Member as of the Effective Date are as set forth in Exhibit A.

(c) If all or a portion of a Membership Interest is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the Membership Interest so Transferred.

(d) The provisions of this Agreement relating to maintenance of Capital Accounts are intended to comply with Treasury Regulations Section 1.704-1(b), and shall be interpreted and applied in a manner consistent with such Treasury Regulation and modified or supplemented, if needed, to fully incorporate any relevant provisions thereof.

Section 4.3. No Third Party Beneficiary. To the fullest extent permitted by Law, no creditor or other third party having dealings with the Company shall have the right to enforce the right or obligation of any Member to make Capital Contributions or loans or to pursue any other right or remedy hereunder or at Law or in equity, it being understood and agreed that the provisions of this Agreement shall be solely for the benefit of, and may be enforced solely by, the parties hereto and their respective successors and permitted assigns. None of the rights or

obligations of the Members herein set forth to make Capital Contributions or loans to the Company shall be deemed an asset of the Company for any purpose by any creditor or other third party, nor may such rights or obligations be sold, transferred or assigned by the Company or pledged or encumbered by the Company to secure any debt or other obligation of the Company or of any of the Members. In addition, it is the intent of the parties hereto that no distribution to any Member shall be deemed a return of money or other property in violation of the Act. The payment of such money or distribution of such property shall be deemed to be a compromise within the meaning of the Act and, to the fullest extent permitted by Law, any Member receiving the payment of any such money or distribution of any such property shall not be required to return any such money or property to any Person, the Company or any creditor of the Company. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to return such money or property, such obligation shall be the obligation of such Member and not of the other Members. Without limiting the generality of the foregoing, a deficit Capital Account of a Member shall not be deemed to be a liability of such Member nor an asset or property of the Company.

ARTICLE V ALLOCATIONS

Section 5.1. Profit and Loss Allocations.

(a) For purposes of maintaining the Capital Accounts all items of Company income, gain, loss and deduction shall be allocated on a pro-rata basis in accordance with the Membership Interest at the time.

(b) For purposes of determining the profits or losses of the Company or any other items allocable to any period, such items shall be determined on a daily, monthly or other basis, as determined by the Manager using any permissible method under Section 706 of the Code and the Treasury Regulations thereunder.

(c) For purposes of maintaining the Capital Accounts of the Members pursuant to Section 4.2, all items of Company credits (including Tax Credits) shall be allocated in the same manner as the allocations of book items of Company gross income are made pursuant to Section 5.1.

Section 5.2. Tax Allocations.

(a) All allocations of Tax items of Company income, gain, credits, deductions and losses and Tax Credits for any period shall be allocated in the same manner as the corresponding allocations of book items of Company income, gain, credits, deductions and losses were made for such period pursuant to Section 5.1.

(b) Notwithstanding Section 5.2(a), if, as a result of contributions of property by a Member to the Company or an adjustment to the Gross Asset Value of Company assets or the making of an election under Section 754 of the Code pursuant to this Agreement, there exists a variation between the adjusted basis of an item of Company property for federal income Tax purposes and such property's Gross Asset Value, allocations of income, gain, loss, and deduction shall, solely for Tax purposes, be allocated among the Members so as to take into account such variation using the traditional method set forth in Treasury Regulations Section 1.704-3.

(c) Any elections or other decisions relating to Capital Accounts (including allocations pursuant to Section 5.1) and Tax allocations (including allocations pursuant to this Section 5.2) shall be made by the Manager. Allocations pursuant to this Section 5.2 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 book income, gain, deductions or losses or distributions pursuant to any provision of this Agreement.

(d) Managers will make commercially reasonable efforts, to allocate to Members the necessary cash to meet Members's required tax liability on quarterly basis, pursuant to Section 5.1 and Article IV.

Section 5.3. Transfer or Change in Company Interest. If the respective Membership Interests of the existing Members in the Company change or if a Membership Interest is Transferred in compliance with this Agreement to any other Person, then, for the Fiscal Year in which the Transfer occurs, all income, gains, credits (including Tax Credits), losses, deductions, and other Tax incidents resulting from the operations of the Company shall be allocated, as between transferor and transferee, by taking into account their varying interests using the closing of the books method in accordance with Section 706 of the Code, unless otherwise agreed by all the Members.

ARTICLE VI DISTRIBUTIONS

Section 6.1. Distributions. On or before the forty-fifth (45th) day following the end of each calendar quarter of each calendar year following the Effective Date, the Managers shall mutually agree whether to cause the Company to distribute any Net Cash Flow attributable to the prior calendar quarter to the Members. Except as provided in Section 10.2, all distributions made pursuant to this Section 6.1 shall be made according to such Member's Interest percentage.

Section 6.2. Withdrawal of Capital. No Member shall have the right to withdraw capital from the Company or to receive or demand distributions or return of its Capital Contributions by the Company until the Company is dissolved in accordance with this Agreement and applicable provisions of the Act. No Member shall be entitled to demand or receive any interest on its Capital Contributions.

Section 6.3. Withholding Taxes. If the Company is required to withhold Taxes with respect to any allocation or distribution to any Member pursuant to any applicable federal, state, local or foreign Tax Laws, the Company may, after first notifying the Member and permitting the Member, if legally permitted, to contest the applicability of such Taxes, withhold such amounts and make such payments to Taxing authorities as are necessary to ensure compliance with such Tax Laws. Any funds withheld by reason of this Section 6.3 shall nonetheless be deemed distributed to the Member in question for all purposes under this Agreement. If the Company (i) did not withhold from actual distributions any amounts it was required to withhold, the Company may, at its option, (a) require the Member to which the withholding was credited to reimburse the Company for such withholding; or (b) reduce any subsequent distributions by the amount of such withholding. This obligation of a Member to reimburse the Company for Taxes that were required to be withheld shall continue after such Member Transfers or liquidates its Membership Interest in the Company, but only with respect to withholding obligations that relate to the period through the date of such Transfer or liquidation. Each Member agrees to furnish the Company with any representations and forms as shall reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, any withholding obligations it may have.

Section 6.4. Distributions in Kind. There shall be no distributions of the assets of the Company (other than cash) in kind without the prior written consent of all the Members.

Section 6.5. Limitation upon Distributions. Notwithstanding the provisions of this Agreement, including the foregoing provisions of this Article VI, to the contrary, no distribution shall be made: (a) if such distribution would violate any contract or agreement to which the Company is then a party (including the Financing Documents) or any Laws then applicable to the Company; (b) to the extent that making such distribution would be inconsistent with the Budget Plan then in effect; or (c) to the extent that the cash available to the Company is insufficient to permit such distribution.

Section 6.6. Proceeds from a Sale of Membership Interest. Any Net Cash Flow resulting from the mutually agreed sale of one hundred percent (100%) of the Membership Interests will be distributed to the Members in the following manner:

(a) For sale proceeds up to Twenty Million Dollars (\$20,000,000.00), after the repayment of any debt, defered payment, deferred compensation or any other form of Company liability, the proceeds will be divided 70% for Barend and 30% for Yellow Tree;

(b) For the next Forty Million Dollars (\$40,000,000) of sale proceeds, or total sale proceeds up to Sixty Million Dollars (\$60,000,000.00), less all payments made per section 6.6(a), the proceeds will be divided 65% for Barend and 35% for Yellow Tree;

(c) For the next Sixty Million Dollars (\$60,000,000) of sale proceeds, or total sale proceeds up to One Hundred Twenty Million Dollars (\$120,000,000.00), less all payments made per sections 6.6(a) and 6.6(b), the proceeds will be divided 60% for Barend and 40% for Yellow Tree;

(d) For any remaining proceeds after all payments made per section 6.6(a), 6.6(b) and 6.6(c), the proceeds will be divided 50% for Barend and 50% for Yellow Tree.

(e) Any partial sale will be allocated in accordance with this Section 6.6 waterfall structure and the then current value of the Company. By way of example if the company is worth \$120,000,000 and 10% of the Company is sold for \$12,000,000, after the repayment of any debt, defered payment, deferred compensation or any other form of Company liability the first \$2,000,000 is divided with 70% or \$1,400,000 to Barend and 30% or \$600,000 to Yellow Tree; the next \$4,000,000 is divided with 65% or \$2,600,000 to Barend and \$1,400,000 to Yellow Tree; the balance (up to \$6,000,000 if there is no debt) is divided with 60% or \$3,600,000 to Barend and 40% or \$2,400,000 to Yellow Tree.

ARTICLE VII ACCOUNTING AND RECORDS

Section 7.1. Fiscal Year. The fiscal year of the Company shall be the calendar year (the “*Fiscal Year*”). Unless otherwise required by the Code, the Company shall have the same Fiscal Year for income Tax and for financial and accounting purposes.

Section 7.2. Books and Records and Inspection.

(a) The Manager shall keep, or cause to be kept by the Company, full and accurate books of account, financial records and supporting documents, which shall reflect, completely, accurately and in reasonable detail, each transaction of the Company and such other matters as are usually entered into the records or maintained by Persons engaged in a business of like character or as are required by Law, and all other documents and writings of the Company. The books of account, financial records, and supporting documents and the other documents and writings of the Company shall be kept and maintained at the principal office of the Company. The financial records and reports of the Company shall be kept in accordance with GAAP and kept on an accrual basis.

(b) In addition to and without limiting the generality of Section 7.2(a), the Manager shall keep, or cause to be kept by the Company, at its principal office:

(i) true and full information regarding the status of the business and financial condition of the Company, including financial statements for the three most recent years;

(ii) promptly after becoming available, a copy of the Company's federal, state, and local income Tax returns for each year;

(iii) a current list of the name and last known business, residence or mailing address of each Member and the Manager;

(iv) a copy of this Agreement and the Company's Certificate of Formation, and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which this Agreement and such Certificate of Formation and all amendments thereto have been executed;

(v) true and full information regarding the amount of cash and a description and statement of the agreed value of any other property and services contributed by each Member and which each Member has agreed to contribute in the future, and the date upon which each became a Member;

(vi) copies of records and supporting documents relating to expenses incurred by the Manager or its Affiliates on behalf of the Company and subject to reimbursement pursuant to Section 8.4; and

(vii) copies of records that would enable a Member to determine the Member's relative shares of the Company's distributions and the Member's relative voting rights.

(c) All books and records of the Company shall be open to inspection and copying by any of the Members, former Members or their authorized Representatives during business hours and at such Member's or former Member's expense, for any purpose reasonably related to such Member's or former Member's interest in the Company, and the Company or the Manager shall maintain the books and records of the Company for a period of five (5) years following the dissolution of the Company. The Members shall provide the Company with written notice prior to the expiration of such five (5)-year period if the Member desires to make copies of such books and records prior to destruction thereof. The Members' or their authorized Representatives' rights under this Section 7.2(c) shall continue during the five (5)-year period despite termination or expiration of this Agreement.

Section 7.3. Bank Accounts, Notes and Drafts.

(a) All funds not required for the immediate needs of the Company shall be placed in Permitted Investments, which investments shall have a maturity appropriate for the anticipated cash flow needs of the Company. All Company funds shall be deposited and held in accounts which are in the name of the Company and separate from all other accounts maintained by the Manager and the Members, and the Company's funds shall not be commingled with any other funds of any other Person, including any Manager, any Member or any Affiliate of a Manager or a Member.

(b) The Members acknowledge that the Manager may maintain Company funds in accounts, money market funds, certificates of deposit, or other liquid assets in excess of the insurance provided by the Federal Deposit Insurance Corporation or other depository insurance institutions and that the Manager shall not be accountable or liable for any loss of such funds resulting from failure or insolvency of the depository institution.

(c) Checks, notes, drafts and other orders for the payment of money shall be signed by such Persons as the Manager from time to time may authorize. When the Manager so authorizes, the signature of any such Person may be a facsimile.

Section 7.4. Financial Statements.

(a) Within forty-five (45) days following the end of each calendar quarter, the Manager shall furnish to each Member an unaudited quarterly report consisting of (i) a balance sheet showing the Company's financial position as of the end of such quarter, (ii) profit and loss statements for such quarter and (iii) a statement of cash flows for such quarter, certified by a responsible officer of the Manager as true, complete and correct in all material respects.

(b) Within ninety (90) days after the end of each Fiscal Year, the Manager shall furnish to each Member (i) audited financial statements with respect to such Fiscal Year (which shall be prepared in accordance with GAAP) that are reviewed and reported thereon by the Accounting Firm, (ii) a statement of each Member's closing Capital Account balance as of the end of such Fiscal Year and (iii) an IRS Schedule K-1 (Form 1065) for such Fiscal Year; provided, however, if the time for filing the United States federal income Tax Return for any such Fiscal Year is extended as set forth in Section 7.6, the IRS Schedule K-1 (Form 1065) for such Fiscal Year shall be furnished to each Member no later than thirty (30) days after the date on which such Tax Return is timely filed with the IRS, but in no event later than June 1 of the year following such Fiscal Year. The reviewed financial statements must include (A) a balance sheet showing the Company's financial position as of the end of such Fiscal Year, (B) profit and loss statements for such Fiscal Year and (C) a statement of cash flows for such Fiscal Year.

Section 7.5. Partnership Status and Tax Elections.

(a) It is the intent of the Members that the Company be Taxed as a partnership for United States federal, state and local income Tax purposes. The Members hereby agree not to elect to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute and agree not to elect for the Company to be treated as a corporation, or an association Taxable as a corporation, under the Code or any similar state statute.

Section 7.6. Company Tax Returns. The United States federal income Tax Returns for the Company and all other Tax Returns of the Company with respect to Taxable years ending after the Effective Date (the "**Company Tax Returns**") shall be prepared as directed by the Manager. By mutual consent, such consent not to be unreasonably withheld, the Manager may extend the time for filing any such Company Tax Returns as provided for under applicable statutes; provided, however, that in all events, the United States federal income Tax return of the Company and all applicable state and local income Tax returns shall be filed no later than the first day of the eighth month following the end of the applicable Taxable period. At the Company's expense, the Manager shall cause the Company to retain the Accounting Firm to prepare or review the necessary federal and state income Company Tax Returns and such Company Tax Returns shall be provided to members in draft form at least fifteen (15) business

days before filing. Each Member shall provide such information, if any, as may be reasonably necessary by the Company for purposes of preparing such Company Tax Returns. The Manager shall cause the Company to timely file such Company Tax Returns, after reflecting any comments made by members, in accordance with the foregoing, taking into account any applicable extensions (but in all events, within the time periods required by the second sentence of this Section 7.6). Within ten (10) days after filing such federal and state income Company Tax Returns, the Manager shall cause the Company to deliver to each Member a copy of the Company's federal and state income Tax Returns as filed for each Fiscal Year, together with any additional Tax-related information in the possession of the Company that such Member may reasonably request.

Section 7.7. Tax Audits.

(a) Yellow Tree is hereby designated as the "Tax Matters Partner," as that term is defined in Section 6231(a)(7) of the Code, of the Company (the "**Tax Matters Partner**"). The Tax Matters Partner and the Manager are hereby directed and authorized to take whatever steps members, in their reasonable discretion, deem necessary or desirable to perfect such designation, including filing any forms or documents with the IRS and taking such other action as may from time to time be required under the Treasury Regulations. The Company shall pay and be responsible for all reasonable third-party costs and expenses incurred by the Tax Matters Partner in performing its duties. The Tax Matters Partner shall promptly deliver to each other Member a copy of all notices, communications, reports and writings received from the IRS relating to or potentially resulting in an adjustment of Company items, shall promptly advise each of the other Members of the substance of any substantive material conversations with the IRS in connection therewith and shall keep the other Members advised of all substantive material developments with respect to any proposed adjustments which come to its attention. In addition, the Tax Matters Partner shall promptly (i) provide the other Members with a draft copy of any material substantive correspondence or filing to be submitted by the Company in connection with any administrative or judicial proceedings relating to the determination of Company items reasonably in advance of such submission and (ii) provide the other Members with a final copy of such correspondence or filing. The Tax Matters Partner will provide each Member with notice reasonably in advance of any meetings or conferences with respect to any administrative or judicial proceedings relating to the determination of Company items (including any meetings or conferences with counsel or advisors to the Company with respect to such proceedings) and each Member shall have the right to attend, at its sole cost and expense, in any such meetings or conferences. The Tax Matters Partner shall take such action as may be necessary to cause, to the extent possible, each other Member to become a "notice partner" within the meaning of section 6231(a) of the Code. Notwithstanding anything in this Agreement to the contrary, Yellow Tree shall have full control over any decision in respect of any administrative and judicial proceedings related to Taxes (including for the avoidance of doubt, any audit, examination, or dispute related to any Taxes). Notwithstanding the foregoing, the Tax Matters Partner shall not take any action that could have any material effect on any audit, examination, any other administrative proceeding without members' prior written consent. For the avoidance of doubt, the Tax Matters Partner shall not enter into a settlement agreement, file any petition or

request, intervene in any action or agree to extend the statute of limitations for making assessments of any Tax with respect to any Company item without members' prior written consent.

(b) Notwithstanding anything herein to the contrary, the provisions of Section 7.2(c) and this Section 7.7 shall survive the Termination Date and shall remain in full force and effect until the expiration of the applicable statute of limitations for any audits of the Company's Tax returns for Taxable years.

ARTICLE VIII MANAGEMENT

Section 8.1. Manager.

(a) Except as otherwise provided in Section 8.1(b), the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of, the Managers and the Managers shall take all such actions as it deems necessary or appropriate to accomplish the purposes of the Company set forth in Section 2.3; provided, that the Managers shall manage the Company in accordance with the Budget Plan. In addition, the Managers may appoint Officers as it deems necessary or desirable to carry on the business of the Company and the Managers may delegate to such Officers such power and authority as the Managers deems advisable. Without limitation of the foregoing, it is understood and acknowledged that the Managers shall provide the following services to the Company:

(i) call, organize, and chair an annual meeting of the Members of the Company;

(ii) review all Laws containing or establishing compliance requirements in connection with the operation and maintenance of the Project and applicable to the Company in connection with its obligations under the Financing Documents and assist the Company in securing and complying with, as appropriate, all permits, licenses and government authorizations and approvals necessary for the ownership, operation and maintenance of the Project (and renewals and replacements of the same);

(iii) maintain operating logs and reports documenting the performance of its obligations under this Agreement, all consistent with Prudent Industry Practices, including maintaining information reasonably necessary to verify any calculations made pursuant to this Agreement;

(iv) deliver to the Company copies of any notices received by Manager on the Company's behalf and provide information necessary for the Company to create reports required to be produced by the Company under the Financing Documents as well as deliver any information related to the Project or the Company as any Member may reasonably request;

(v) maintain true, complete and accurate cost ledgers and accounting records for the Company in accordance with generally accepted accounting principles applicable to the Project and this Agreement and to reflect the services provided and expenses paid or incurred by the Company pursuant to this Agreement and Financing Documents;

(vi) provide (or arrange for the provision of) such operating and maintenance and engineering consulting for the Projects as may be necessary or desirable from time to time in accordance with Prudent Industry Practices;

(vii) prepare and deliver a proposed Budget Plan for approval by the Members at the annual meeting in accordance with Section 8.11;

(viii) respond in a reasonably timely manner to written requests for information regarding the Project from the Members to the extent such information is reasonably accessible to the Manager; and

(ix) furnish to the Members true and correct copies of all of the Financing Documents, and all amendments thereto, and all notices (including any notice of any event of default), waivers, requests for waivers, and correspondence with the Lenders or their agent under the Financing Documents or the Lease.

(b) Subject to Section 3.3(d) and Section 11.2(a), neither the Manager nor any Officer shall have any authority to, and the Manager covenants and agrees that it shall not, cause the Company to do or take, or cause the Company to permit the Projects to do or take or consent to the Projects doing or taking, any of the following actions without the prior consent of all of the Members having been obtained:

(i) enter into or effect any transaction or series of related transactions involving the purchase, lease, license, exchange or other acquisition (including by merger, consolidation, acquisition of stock or acquisition of assets) of the Company or the Projects or by the Company or the Projects of any assets and/or Equity Interests of any Person except (x) for purchases, leases, licenses, exchanges or other acquisitions of any assets by the Projects having a fair market value not exceeding \$50,000 in any single instance and \$100,000 in the aggregate (including without limitation the Project) and (y) to the extent approved or authorized in the Budget Plan;

(ii) enter into or effect any transaction or series of related transactions involving the sale, lease, license, exchange, transfer, assignment, distribution or other disposition (including by merger, consolidation, sale of stock or sale of assets) of the Company or the Projects or by the Company or the Projects of any assets having a fair market value in excess of \$50,000 in any single instance and \$100,000 in the aggregate (including without limitation the Project but excluding cash distributions made in accordance with this Agreement and sales of electric energy, capacity and ancillary services and renewable energy credits by the Projects under any power purchase agreement);

(iii) (x) enter into and incur any indebtedness under or amend any Financing Document or (y) incur any other indebtedness in excess of \$50,000 in any single instance, and \$100,000 in the aggregate, or pledge or grant liens on any assets or guarantee, assume, endorse or otherwise become responsible for the obligations of any other Person, except in each case to the extent approved or authorized in the Budget Plan ;

(iv) issue, sell, buy-back or redeem any limited liability company interests of the Company or the Projects, except in connection with allocation of Membership Interests pursuant to section 3.2 of the Agreement;

(v) admit additional members to the Company or the Projects;

(vi) enter into, amend, waive or terminate agreements between the Company or the Projects, on the one hand, and any member of the Company or the Projects, the Manager or any Affiliates of a member of the Company or the Projects or the Manager, on the other hand, unless such transaction satisfies the requirements of Section 8.7;

(vii) enter into, amend or terminate any material contract or any contract or arrangement affecting the leasehold interests of the Project;

(viii) make any loan, advance or capital contribution in any Person, except to the extent approved or authorized in the Budget Plan;

(ix) appoint or remove the Accounting Firm or make any changes in the accounting methods or policies of the Company or the Projects (other than as required by GAAP);

(x) establish a subsidiary or enter into any joint venture or similar business arrangement;

(xi) initiate or consummate an initial public offering or make a public offering and sale of the Membership Interests or any other securities;

(xii) make any investments in any other Person in excess of \$50,000;

(xiii) dissolve, wind-up or liquidate the Company or the Projects or initiate a Bankruptcy proceeding involving the Company or the Projects;

(xiv) enter into any Agreement or obligation that would require the payment of more than \$50,000 by the Company or the Projects in a Fiscal Year;

(xv) settle any lawsuit, action, dispute or other proceeding or otherwise assume any liability with a value in excess of \$50,000 or agree to the provision of any equitable relief by the Company or the Projects;

(xvi) make any Tax elections, including an election to be treated as other than a partnership for United States federal income Tax purposes, except as expressly provided for in this Agreement;

(xvii) engage in any business or activity other than that described in Section 2.3;

(xviii) amend or terminate the Company's Certificate of Formation or the Projects' Certificate of Formation, execute any document that, in each case, causes or permits the Company or the Projects to combine, merge or consolidate with or into any other entity, or purchase or otherwise acquire all or substantially all of the assets of any Person;

(xix) authorize, approve, establish, amend, materially deviate from or otherwise take any other action regarding the Budget Plan, or any other business plan, approved by the Members at the annual meeting.

(c) If no response is received from a Member within ten (10) Business Days of receipt of a written request for consent regarding any of the matters described above, a second written request shall be sent to such non-responding Member. If such non-responding Member fails to provide a response within five (5) Business Days of its receipt of the second written request for consent, such Member will be deemed to have consented.

(d) The Manager shall devote such time, effort and skill to the Company's business affairs as is necessary and proper to promote the Company's welfare and success in accordance with Prudent Industry Practice. Notwithstanding any duty otherwise existing at law or in equity, the Members expressly recognize that the Manager has or may have substantial other business activities and agree that the Manager and its Affiliates, officers, directors, employees, and agents, as the case may be (other than those persons who are Officers or employees of the Company), shall not be bound to devote all of their business time to the affairs of the Company and that the Manager or its Affiliates may engage for their own account and for the accounts of others in other businesses or activities as such activity or businesses do not directly compete with Company or utilize any resources of the Company, including Company's client base.

(e) Notwithstanding any duty otherwise existing at Law or in equity, the Manager shall act in good faith and in the best interests of the Company at all times and in accordance with the covenants and agreements made in this Agreement and shall not be required to prefer the business or properties of the Company over the business or properties of any other entity in which the Manager or its Affiliates may have an interest. In carrying out its duties hereunder, except as otherwise provided in this Agreement, the Manager shall not be liable to the Company or to any Member for its good faith actions or failure to act (including actions taken or omitted to be taken in good faith in accordance with the written direction of all Members), for any errors of judgment, or for any act or omission believed in good faith to be within the scope of authority conferred by this Agreement, but nothing herein shall relieve the Manager for any

liability for breach of such standard, fraud, willful misconduct, gross negligence, or a knowing violation of Law in the performance of its duties under this Agreement.

(f) Except as otherwise provided in this Agreement:

(i) each of the Members and the Manager shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any other Person who is a Member, the Manager or any Officer or employee of the Company, or by any other individual as to matters the Members or the Manager reasonably believe are within such other individual's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the Company or any other facts pertinent to the existence and amount of assets from which distribution to the Members might properly be paid;

(ii) the Manager shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent or other paper or document, but the Manager, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit; and

(iii) the Manager shall not be required to take any action hereunder, nor shall any other provision of this Agreement be deemed to impose a duty on the Manager to take any action, if the Manager shall reasonably determine, or shall have been advised by counsel, that such action is contrary to any applicable Law or this Agreement.

Section 8.2. Initial Appointment of the Manager. The Company shall initially have two (2) Managers. One of the Managers (the "**Yellow Tree Manager**") shall be appointed by Yellow Tree and the other (the "**Barend Manager**") shall be appointed by Barend. The initial Yellow Tree Manager shall be Ran Bujanover and the initial Barend Manager shall be [Barend Venter].

Section 8.3. Compensation of the Manager. During the period serving as Manager, the Company will reimburse the Manager and its Affiliates on a timely basis for reasonable and appropriately incurred out-of-pocket expenses incurred on behalf of the Company, including without limitation amounts paid to third-party non-Affiliate consultants and contractors engaged to perform services on behalf of the Company as permitted hereunder. In addition each Manager will be entitled to an annual salary of One Hundred and Eighty Thousand dollars (\$180,000.00) per year. If Company is unable to pay salaries when due, any unpaid amounts shall accrue with interest. Managers may elect from time to time and upon Member's approval to change annual compensation.

Section 8.4. Removal or Resignation of the Manager. The Manager may only be removed for "cause" provided, however, that, upon the removal of the Manager, Members shall have the right to appoint a new Manager, upon unanimous consent, which consent shall not be unreasonably withheld. For purposes of this section, "cause" means (a) intentional misconduct,

gross negligence or fraud by the Manager in the performance of its duties and obligations under this Agreement; (b) violation of any Law caused by the Manager's dereliction of its duty which violation is reasonably expected to have a material adverse effect on the Company, including any environmental Law, if such violation is not remedied within thirty (30) days of notice; provided, that if such violation is not capable of being remedied within such time period, such violation is not remedied within a reasonable period of time (having due regard for the circumstances of the violation); (c) breach of any material provision of this Agreement caused by the Manager's dereliction of its duty that is not cured within thirty (30) days of notice; provided, that if such breach is not capable of being cured within such time period such breach is not cured within a reasonable period of time (having due regard to the circumstances of the breach) or (d) the Bankruptcy or dissolution of the Manager. Upon a resignation of the Manager (except for any such resignation following an event that constitutes "cause" as described above), a new Manager shall be selected by Parties. Notwithstanding the foregoing, if at any time the Member which elected Manager no longer holds any Membership Interests, the then-current Members shall, as soon as reasonably practicable, select a new Manager reasonably acceptable to such Members. Once such successor Manager is selected, former Manager will resign and assign its rights as Manager to such successor Manager and shall have no further rights or obligations under this Agreement, except with respect to actions taken or failed to have been taken prior to such resignation and except that the provisions of Sections 11.1 (*Notices*), 11.5 (*Severability*), 11.7 (*Entire Agreement*), 11.8 (*Public Statements*), 11.9 (*Governing Law*), 11.11 (*Counterparts*) and 11.12 (*Confidentiality*) shall survive such resignation.

Section 8.5. Third Party Reliance. Third parties dealing with the Company shall be entitled to rely conclusively on the power and authority of the Manager. No third Person dealing with the Company shall be required to ascertain whether the Manager is acting in accordance with the provisions of this Agreement. All third Persons may rely on a document executed by the Manager as binding on the Company.

Section 8.6. Officers. The Manager may, from time to time as it deems advisable, appoint officers of the Company (the "*Officers*") and assign, in writing, titles (including President, Vice President, Secretary and Treasurer) to any such person. Unless the Manager decides otherwise, if the title assigned to an Officer is one commonly used for officers of a business corporation formed under the Act, the assignment of such title shall constitute the delegation to such person of the authorities and duties that are normally associated with that office. Upon the Effective Date of the Agreement Managers will appoint the Officers as listed in Exhibit D. Any delegation pursuant to this Section 8.6 may be amended or revoked at any time by the mutual consent of the Managers. Except as otherwise provided in this Section 8.6, all Officers, shall serve at the discretion of and subject to the direction of the Manager.

Section 8.7. Contracts with Affiliates. Subject to Section 8.1(b)(vi), the Company may enter into contracts and agreements with the Manager or any Affiliates of the Manager (other than the Company) for the rendering of services, or the sale or lease of supplies and equipment to the Company necessary or appropriate for the operation of Company business consistent with its purposes stated herein; provided, however, that for any contracts or agreements entered with the

Manager or any Affiliates of the Manager (other than the Company) after the date hereof, the cost of such services, supplies and equipment, and the other terms of such contracts and agreements must be no less favorable, and on arms' length terms, to the Company than those available from unrelated third parties that are engaged in the business of rendering comparable services or selling or leasing comparable supplies and equipment. Manager must inform Members, in writing, of any negotiations between Company and Affiliates, and must provide, in a timely manner any information reasonably requested by Member regarding said negotiations and transaction terms. Exhibit C lists all current contractual obligations between Company and Affiliates. Manager will update Exhibit C at the execution of any additional agreements with Affiliates. It is agreed that Company will provide Barend's affiliate BPi with a right of first refusal on EPC contracts for Company assets. The EPC contracts to be structured as open book cost plus contracts with a 10% margin where panels are included in contact amount or 13% if panels are not included in contract amount. Direct overhead costs are included in the contract amount.

Section 8.8. Insurance. The Company shall, and shall cause the Projects to, acquire and maintain (including making changes to coverage and carriers) such casualty, general liability (including product liability), property damage and other types of insurance with respect to the Project and/or the operations of the Company, as is required by the Transaction Documents, and such additional insurance as may otherwise be determined by the Manager to be necessary or advisable from time to time.

Section 8.9. Duties; Indemnification.

(a) To the extent that, at Law or in equity, a Manager or Member has fiduciary duties and liabilities relating to the Company or to any Member or other Person bound by this Agreement, a Manager or Member acting under this Agreement shall not be liable to the Company or to any Member or other Person bound by this Agreement for its good faith reliance on the provisions of this Agreement or for any act or omission performed or omitted in good faith on behalf of the Company (and in a manner reasonably believed to be within the scope of such entity's authority hereunder). The provisions of this Agreement, to the extent that they restrict or eliminate the duties and liabilities of a Manager or Member otherwise existing at Law or in equity to the Company or its Members or Manager, are agreed by the Manager and the Members to replace such other duties and liabilities of such Manager or Member.

(b) To the fullest extent permitted by applicable Law, a Member, Manager and their respective Affiliates, officer, directors, managers, employees and agents shall be entitled to indemnification from the Company for any Claims incurred by such Person by reason of any act or omission performed or omitted by such Person in performing its duties hereunder or relating to the Company's activities or business, in each case, subject to and in accordance with the terms of this Agreement, provided that: (i) any such act or omission was undertaken in good faith on behalf of the Company and in a manner reasonably believed to be in, or not opposed to, the best interests of the Company; (ii) any such act or omission was reasonably believed to be within the scope of authority conferred on such Person by this Agreement; (iii) any such act or

omission was not in willful breach of this Agreement and (iv) with respect to any criminal action or proceeding, such Person had no reasonable cause to believe his action or omission was unlawful, except that no Person shall be entitled to be indemnified in respect of any damages or loss incurred by such Person by reason of fraud, gross negligence, or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 8.9(b) shall be provided out of and to the extent of Company assets only (including the proceeds of any insurance policy), and no Member shall have any personal liability on account thereof, including without limitation, any obligation to contribute money or other property to the Company.

(c) Neither Manager nor any Member shall be liable to the Company or to another Member for any special, incidental, exemplary, indirect or consequential damages of any nature as a result of any breach of this Agreement or any of its duties or obligations hereunder, whether arising under contract, tort (including negligence), strict liability or otherwise.

Section 8.10. Tax Credit Matters.

Notwithstanding any provision of this Agreement or any Transaction Document to the contrary, the Manager shall not, and shall cause each of its Affiliates not to, cause or permit the Company or any Person acting on behalf of the Company to take any action that would result in, or refrain, and shall cause each of its Affiliates to refrain, from taking any action reasonably within its control that is necessary to prevent, all or any portion of the Project failing to qualify for Tax Credits.

Section 8.11. Budget Plan.

(a) The initial Budget Plan, is attached hereto as Exhibit B. The Budget Plan shall include detailed capital and operating expense budgets, cash flow projections and profit and loss projections. The Manager shall operate the Company in accordance with the initial Budget Plan until a new Budget Plan is approved by the Members in accordance with Section 8.11(b).

(b) At least thirty (30) days before each annual meeting the Manager shall prepare and deliver to each Member a proposed revised Budget Plan for the upcoming Fiscal Year in accordance with Section 11.1. If the Manager fails to deliver the revised Budget Plan at least thirty (30) days prior to the annual meeting, the Budget Plan then in effect shall be the Budget Plan for the upcoming Fiscal Year. At the annual meeting or promptly following the delivery of the revised Budget Plan in accordance with Section 8.11(b)(ii), the Members shall vote on the proposed Budget Plan. If less than all the Members vote affirmatively for the proposed revised Budget Plan, the Budget Plan then in effect shall continue to be the Budget Plan for the upcoming Fiscal Year and the Manager shall continue to operate the Company in accordance with the Budget Plan then in effect until a revised Budget Plan is approved by all the Members at an annual meeting.

ARTICLE IX TRANSFERS

Section 9.1. Prohibited Transfers.

(a) No Member shall sell, transfer, assign, convey, pledge, mortgage, encumber, hypothecate all or otherwise dispose of all or any part of its Membership Interest or any interest, rights or obligations with respect thereto, whether directly or indirectly by sale, transfer, assignment, conveyance or other disposition of direct or indirect ownership interests in the Member (a “*Transfer*”) except as provided in this Article IX. Any attempted Transfer, other than in strict accordance with this Article IX, shall be null and void, *ab initio* and the purported transferee shall have no rights as a Member or otherwise in or to the Membership Interest. Any sale or other transfer, including transfer by consolidation, merger, or reorganization, of the majority of the voting stock of a Member if Member is a corporation, or of a majority of the interests in Member if Member is a partnership or limited liability company, or of any lesser interest that affects a change in the identity of the persons exercising control of such corporate, limited liability company or partnership Tenant, shall be an assignment for purposes of this Section 9.1.

(b) Any Member may Transfer its Interests only with unanimous written consent of all Members (which consent may be withheld in its reasonable discretion); provided, however, that a Transfer to an Affiliate that is not a Disqualified Person will not require such consent. Where entities

(c) Pursuant to Section 9.1(a) and 9.1(b), Transfers by Member of all or a portion of its Membership Interest, and admission of the transferee thereof as a Member with respect to such Transferred Membership Interest, shall be subject to satisfaction of the following conditions:

(i) Member and the prospective transferee each execute, acknowledge and deliver to the Company instruments of Transfer and assignment with respect to such Transfer and such other instruments as are reasonably necessary and satisfactory in form and substance to the Manager to effect such Transfer and to confirm Member’s intention that the transferee become a Member in its place in respect of the Membership Interest Transferred;

(ii) the transferee executes, adopts and acknowledges this Agreement, and executes such other agreements as the Manager may reasonably deem necessary or appropriate to confirm the undertaking of the transferee to be bound by the terms of this Agreement and to assume the obligations of Member under this Agreement in respect of the Membership Interest Transferred;

(iii) the Transfer will not violate any securities Laws or any other applicable federal or state Laws or the order of any court having jurisdiction over the Company or any of its assets;

(iv) the Transfer will not cause the Company to be classified as a corporation or publicly traded partnership for Tax purposes;

(v) the Transfer will not result in the Project ceasing to be a Qualifying Facility eligible for the QF Exemption;

(vi) the Transfer does not require the Company to register as an “investment company” under the Investment Company Act of 1940, as amended;

(vii) the Transfer will not result in a Recapture Event, unless the transferor has indemnified the other Members against any adverse effects in a manner acceptable to the other Members;

(viii) no transferee is a Disqualified Person; and

(ix) the Transfer will not cause all or part of the assets of the Company to be “tax-exempt use property” within the meaning of Section 168(h) of the Code or to be subject to the alternative depreciation system under Section 168(g) of the Code.

Section 9.2. Admission. Any transferee of all or part of a Membership Interest pursuant to a Transfer made in accordance with this Agreement, whether by assignment or by operation of Law, shall be admitted to the Company as a substitute Member upon its execution of a counterpart to this Agreement and compliance with the terms of this Article IX.

ARTICLE X DISSOLUTION AND WINDING-UP

Section 10.1. Events of Dissolution. The Company shall be dissolved and its affairs shall be wound up upon the first to occur of any of the following:

(a) the unanimous written consent of the Members to dissolve and terminate the Company;

(b) the entry of a decree of judicial dissolution under the Act; or

(c) at any time there are no members of the Company unless the Company is continued in accordance with the Act.

Section 10.2. Distribution of Assets. Upon the occurrence of one of the events set forth in Section 10.1, the Members shall appoint one or more liquidators (which may include one or more Members or the Manager). Upon their appointment, the liquidators shall proceed diligently to wind-up the affairs of the Company and shall make final distributions as provided herein and in the Act by the later of the end of the Company Taxable year in which such event occurs or ninety (90) days after such event. The liquidators shall sell any and all Company property,

including to Members. The liquidators shall first pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including the establishment of a cash escrow fund for contingent, conditional or unmatured liabilities in such amount and for such term as the liquidators may reasonably determine) in the order of priority as provided by Law. Items of income and gain for the taxable year in which the liquidation occurs shall first be allocated to each Member having a deficit in such Member's Capital Account in proportion to the amount of such deficit, until such deficit has been eliminated. Any remaining items of income, gain, loss and deduction for such taxable year shall be allocated to the Members in accordance with Section 6.1. After giving effect to the allocations in the previous two sentences, the balance of the assets of the Company shall be distributed *pro rata* to the Members in accordance with the positive balance in their Capital Accounts, after giving effect to all contributions, distributions and allocations for all periods. The distribution of cash and/or property to a Member in accordance with the provisions of this Section 10.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member on its Membership Interest in the Company of all the Company's property and constitutes a compromise to which all Members have consented within the meaning of the Act. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return the positive Capital Account balance (if any) of each Member, such Member shall have no recourse against the Company or any other Member; provided, however, that each Member shall restore to the Company the amount of its Limited DRO.

Section 10.3. De-Commissioning of the Project. Any obligations for the de-commissioning of the Project will be the obligations of the Company, and the Members shall have no responsibility or liability relating thereto.

Section 10.4. In-Kind Distributions. There shall be no distribution of assets of the Company in kind without the prior written consent of all of the Members.

Section 10.5. Certificate of Cancellation.

(a) When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets have been distributed to the Members, a Certificate of Cancellation (the "*Certificate of Cancellation*") shall be executed and filed by the liquidators with the Secretary of State of the State of Delaware, which certificate shall set forth the information required by the Act.

(b) Upon the filing of the Certificate of Cancellation, the existence of the Company shall cease.

**ARTICLE XI
MISCELLANEOUS**

Section 11.1. Notices. Unless otherwise provided herein, any offer, acceptance, election, approval, consent, certification, request, waiver, notice or other communication required or permitted to be given hereunder (collectively referred to as a “*Notice*”), shall be in writing and delivered (a) in person, (b) by registered or certified mail with postage prepaid and return receipt requested, (c) by recognized overnight courier service with charges prepaid or (d) by facsimile transmission, directed to the intended recipient at the address of such Member set forth in Exhibit A or at such other address as any Member hereafter may designate to the others in accordance with a Notice under this Section 11.1. A Notice or other communication will be deemed delivered on the earliest to occur of (i) its actual receipt, or (ii) the date of receipt of a facsimile or, if such date of receipt is not a Business Day, the next Business Day following such date of receipt.

Section 11.2. Amendments.

(a) Except as otherwise provided in this Section 11.2, this Agreement may be modified or amended only by an instrument in writing duly executed by all of the Members, the consent to and execution of any such written instrument not to be unreasonably withheld or delayed by any Member. Notwithstanding the foregoing, the Manager may amend Exhibit A to reflect a resignation or withdrawal of a Member from the Company in accordance with the terms of this Agreement, a Transfer of a Membership Interest in accordance with the terms of this Agreement, the admission of a new Member in accordance with the terms of this Agreement, or a change in percentage of Membership Interest resulting from any of the foregoing events. The Manager will give the Members prompt notice of any amendment made pursuant to this Section 11.2.

(b) From time to time Members may furnish the Company with proposals for capital upgrades or other ideas to improve the performance and operational efficiency and reliability of the Project which require the consent of all the Members to implement (each, a “*Proposal*”). The Members agree to review all Proposals in good faith and to consider their potential impact on the Net Cash Flow to the Company. To the extent that the Members agree to implement any Proposal, Members will approve Proposal in writing and update the Budget Plan accordingly.

Section 11.3. Partition. Each of the Members hereby irrevocably waives, to the extent it may lawfully do so, any right that such Member may have to maintain any action for partition with respect to the Company property.

Section 11.4. Waivers and Modifications. Any waiver or consent, express, implied or deemed, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company or any action inconsistent with this Agreement is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company or any other such action. Failure on the part of a Person to insist in any one or more instances upon strict performance of any provisions of this Agreement, to take advantage of any of its rights hereunder, or to declare any Person in default with respect to the Company, irrespective of how

long that failure continues, does not constitute a waiver by that Person of its rights with respect to that Person or its rights with respect to that default until the applicable statute of limitations period has lapsed. All waivers and consents hereunder shall be in writing and shall be delivered to the other Members in the manner set forth in Section 11.1. All remedies afforded under this Agreement shall be taken and construed as cumulative and in addition to every remedy provided for herein and by applicable Law.

Section 11.5. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions thereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

Section 11.6. Successors; No Third-Party Beneficiaries. This Agreement is binding on and inures to the benefit of the Members and their respective heirs, legal representatives, successors and permitted assigns. Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Members that this Agreement shall not be construed as a third-party beneficiary contract.

Section 11.7. Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto or incorporated herein by reference, constitutes the entire agreement of the Members with respect to the matters covered herein. This Agreement supersedes all prior agreements and oral understandings among the parties hereto with respect to such matters.

Section 11.8. Public Statements. No Member shall issue a public announcement, statement or other disclosure without the written consent of the other Members, unless, based upon the advice of legal counsel to a Member, such public announcement, statement or other disclosure is required by any Laws or by obligations pursuant to any listing agreement with any national securities exchange in order to discharge such Member's disclosure obligations, in which case the issuing Member shall provide the other Members, in writing, no less than one Business Day prior to such proposed statement, the content of the proposed statement and an opportunity to comment on the statement. The issuing Member may thereafter release such statement (incorporating the reasonable comments of the other Members) and, upon such release, shall promptly furnish the other Members with a copy thereof. Without limiting the generality of the foregoing, each Member, upon the request of another Member, shall provide to such Member, and such Member shall have the right to review in advance all information relating to the transactions contemplated by the Transaction Documents that appear in any filing made in connection with the transactions contemplated hereby or thereby.

Section 11.9. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of California, excluding any conflict of Laws rule or principle that might refer the governance or construction of this Agreement to the Law of another jurisdiction. Any mediation, arbitration or lawsuit involving any dispute or matter arising under or relating to this Agreement may only be brought before the appropriate tribunal or court in Napa County California, unless the parties to the mediation, arbitration or lawsuit otherwise

agree. All Members hereby consent to the exercise of personal jurisdiction by any such tribunal or court with respect to any such proceeding.

Section 11.10. Further Assurances. In connection with this 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 reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

Section 11.11. Counterparts. This Agreement may be executed in any number of counterparts, each of which may be delivered by facsimile transmission or electronically in portable document format (PDF) format and each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, notwithstanding that all such parties may not have executed the same counterpart.

Section 11.12. Confidentiality. The Members acknowledge and agree that this Agreement and the other Transaction Documents, the terms and conditions set forth herein and therein, and all documents and information obtained by a Member from another Member in connection with the transactions contemplated hereby and thereby, including any and all information they may have or obtain concerning the Company and its assets, business, operations or prospects (collectively, the "**Confidential Information**") are to be kept confidential, and the Members shall, and shall cause their respective Affiliates and Representatives to, use all due care to hold confidential and not use in any manner detrimental to the Company or either Member any and all Confidential Information provided, however, that Confidential Information shall not include information that (a) is or becomes generally available to the public other than as a result of a disclosure by a Member or any of its Representatives in violation of this Agreement, (b) becomes available to a Member or any of its Representatives on a non-confidential basis prior to its disclosure by the Company or its Representatives or (c) is independently developed by a Member without reference to the Confidential Information. Notwithstanding anything to the contrary, a party or any of its Affiliates or Representatives may disclose Confidential Information to the extent that it (1) is required or requested to be disclosed as a result of any applicable Laws or rule or regulation of any stock exchange, (2) is required or requested by the IRS or any other Taxing authority in connection with the Project or Tax Credits relating thereto, including in connection with a request for any private letter ruling, any determination letter or any audit, (3) is voluntarily disclosed by a Member to the IRS or other Governmental Entity with jurisdiction over such Member in connection with such authority's review or approval of the transactions contemplated by this Agreement, or (4) is disclosed on a similarly confidential basis by such a Member to its officers, directors, partners, members, shareholders, advisors, employees, auditors and legal counsel and other Affiliates on a need-to-know basis, provided such Member directs such recipients to keep such Confidential Information confidential under the same terms as provided herein. If a Member is required or advised by legal counsel that disclosure or delivery of Confidential Information provided by the other Member is required by Law, legal process, regulation, judicial or administrative order or requirements of a securities exchange, such disclosing Member will provide the other Member with prompt notice (unless

such notice is prohibited by Law or otherwise impractical) so that the other Member may seek a protective order or other appropriate remedy at the sole cost of the Member seeking such protective order or appropriate remedy or waive compliance with the non-disclosure provisions of this Section 11.12 with respect to the information required to be disclosed. If such protective order or other remedy is not obtained, or the other Member waives compliance with the non-disclosure provisions of this Section 11.12 with respect to the information required to be disclosed, the disclosing Member will furnish only that portion of such information that it is advised by counsel is legally required to be furnished and will use its commercially reasonable efforts, at the other Member's expense, to obtain reliable assurance that confidential treatment will be accorded such information. In the event that a Member is requested by any banking, securities, securities exchange or other regulatory or self-regulatory organization in connection with any general audit, examination or inquiry of a Member or its regulated Affiliates to disclose Confidential Information, such Member may disclose or deliver any Confidential Information to such authority that such Member reasonably concludes is responsive to such request; provided that such disclosing Member shall advise such authority of the confidential nature of such Confidential Information. Notwithstanding anything herein to the contrary, nothing in this Agreement shall be construed to prevent any Person (including all employees, representatives and agents of such Person) from disclosing to any and all Persons, without limitation of any kind, the United States federal income "tax treatment" and "tax structure" (in each case, within the meaning of Treasury Regulation Section 1.6011-4 and applicable U.S. state and local Law). The preceding sentences are intended to cause the transactions contemplated by the Transaction Documents not to be treated as having been offered under conditions of confidentiality for purposes of Sections 1.6011-4(b)(3) and 301.6111-2(a)(2)(ii) (or any successor provision) of the Treasury Regulations issued under the Code and shall be construed in a manner consistent with such purpose. Nothing herein shall be construed as prohibiting a party hereunder from using such Confidential Information in connection with (i) any claim against another Member hereunder, (ii) any exercise by a party hereunder of any of its rights hereunder or (iii) a disposition by a Member of all or a portion of its Membership Interest or a disposition of an Equity Interest in such Member or its Affiliates, provided that such potential purchaser shall have entered into a confidentiality agreement with respect to Confidential Information on customary terms used in confidentiality agreements in connection with corporate acquisitions before any such information may be disclosed.

Section 11.13. Joint Efforts. To the full extent permitted by Law, neither this Agreement nor any ambiguity or uncertainty herein will be construed against any of the parties hereto, whether under any rule of construction or otherwise. On the contrary, this Agreement has been prepared by the joint efforts of the respective attorneys for, and has been reviewed by, each of the parties hereto.

Section 11.14. Specific Performance. The Members agree that irreparable damage will result if this Agreement is not performed in accordance with its terms, and the Members agree that any damages available at Law for a breach of this Agreement would not be an adequate remedy. Therefore, to the full extent permitted by Law, the provisions hereof and the obligations of the Members hereunder shall be enforceable in a court of equity, or other tribunal with

jurisdiction, by a decree of specific performance, and appropriate injunctive relief may be applied for and granted in connection therewith. Such remedies and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive and shall be in addition to any other remedies that a Member may have under this Agreement, at Law or in equity, without proof of damages or posting a bond.

Section 11.15. Survival. All indemnities and reimbursement obligations made pursuant to this Agreement shall survive dissolution and liquidation of the Company until expiration of the longest applicable statute of limitations (including extensions and waivers) with respect to the matter for which a Person would be entitled to be indemnified or reimbursed, as the case may be.

Section 11.16. Conflicts of Interest. The Company and each Member acknowledge that each Member, officer, Manager and Affiliate thereof has business interests and engages in business activities or commercial transactions in addition to those relating to the Company (including those which may compete with the Company). The Company and each Member agree and to the fullest extent permitted by applicable Law, hereby waive and agree not to assert any claim to the contrary that no such Person shall be obligated to present any particular investment or business opportunity to the Company or its Members even if such opportunity is of a character which, if presented to the Company could be undertaken by the Company, and, in fact, each such Person shall have the right to undertake any such opportunity for itself, for its own account or on behalf of another or to recommend any such opportunity to other Persons.

[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Amended and Restated Limited Liability Company Agreement to be signed by their respective duly authorized officers as of the date first above written.

Member and Manager:

Barend Venter

By: 

Name: Barend Venter
Title: CEO

Yellow Tree:

Yellow Tree Capital LLC
a California limited liability company

By: 

Name: Barend Venter
Title: Managing Member

EXHIBIT A

**INFORMATION ON MEMBERS, OWNERSHIP OF MEMBERSHIP INTERESTS AND
CAPITAL ACCOUNT BALANCES PRIOR TO CLOSING**

<i>Member Names and Addresses</i>	<i>Percentage Held</i>	<i>Capital Account Balance</i>
<i>Yellow Tree Capital LLC</i>	<i>0%</i>	<i>0</i>
<i>Barend</i>	<i>100%</i>	<i>100</i>

EXHIBIT A-1

**INFORMATION ON MEMBERS, OWNERSHIP OF MEMBERSHIP INTERESTS AND
CAPITAL ACCOUNT BALANCES AT CLOSING**

<i>Member Names and Addresses</i>	<i>Percentage Held</i>	<i>Capital Account Balance</i>
<i>Yellow Tree Capital LLC</i>	<i>40%</i>	<i>40</i>
<i>Barend</i>	<i>60%</i>	<i>60</i>

EXHIBIT A-1

EXHIBIT A-2

**INFORMATION ON MEMBERS, OWNERSHIP OF MEMBERSHIP INTERESTS AT
STEP-UP TRANSFER DATE**

<i>Member Names and Addresses</i>	<i>Percentage Held</i>
<i>Yellow Tree Capital LLC</i>	<i>50%</i>
<i>Barend Venter</i>	<i>50%</i>

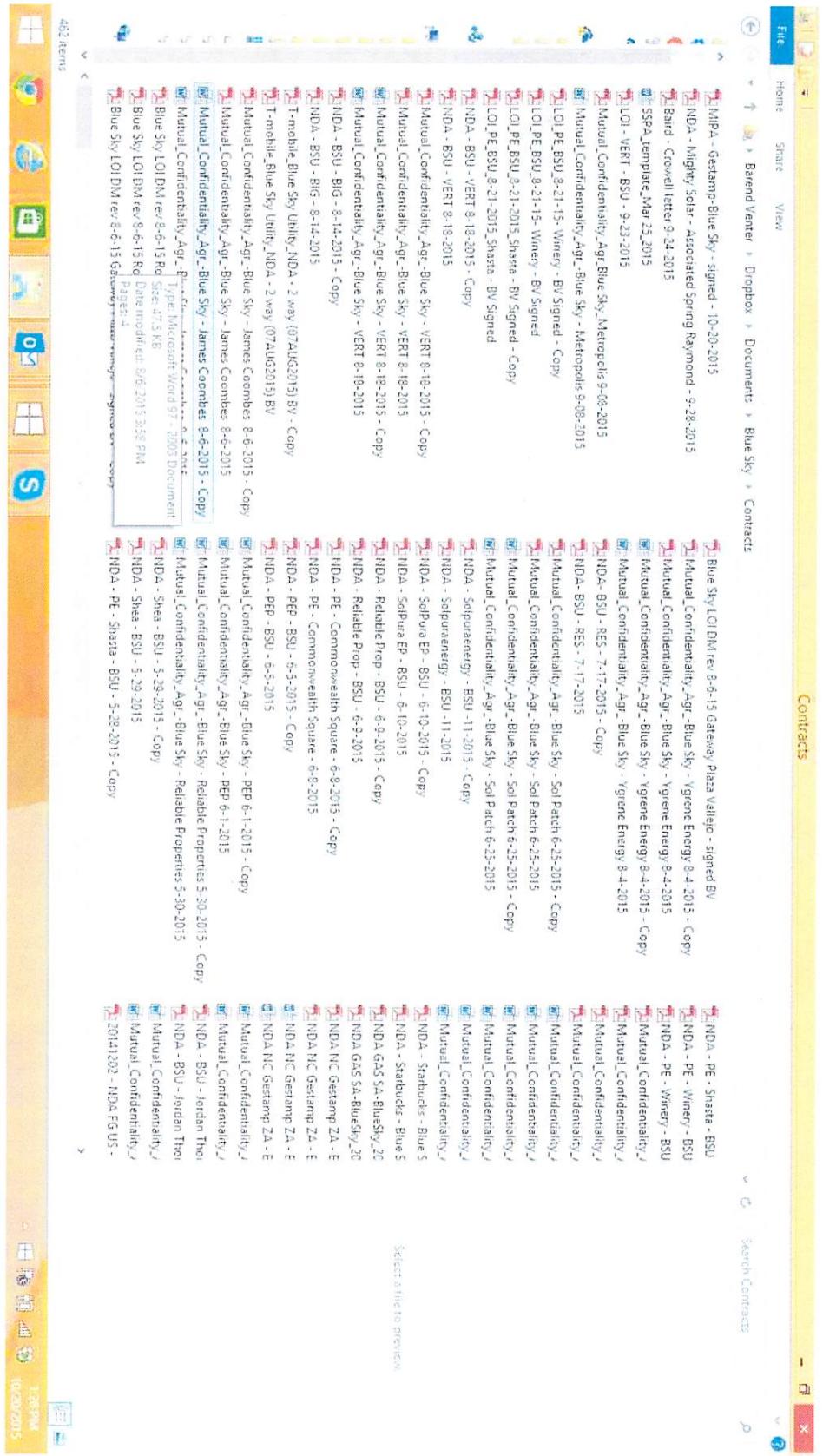
EXHIBIT B
BUDGET PLAN

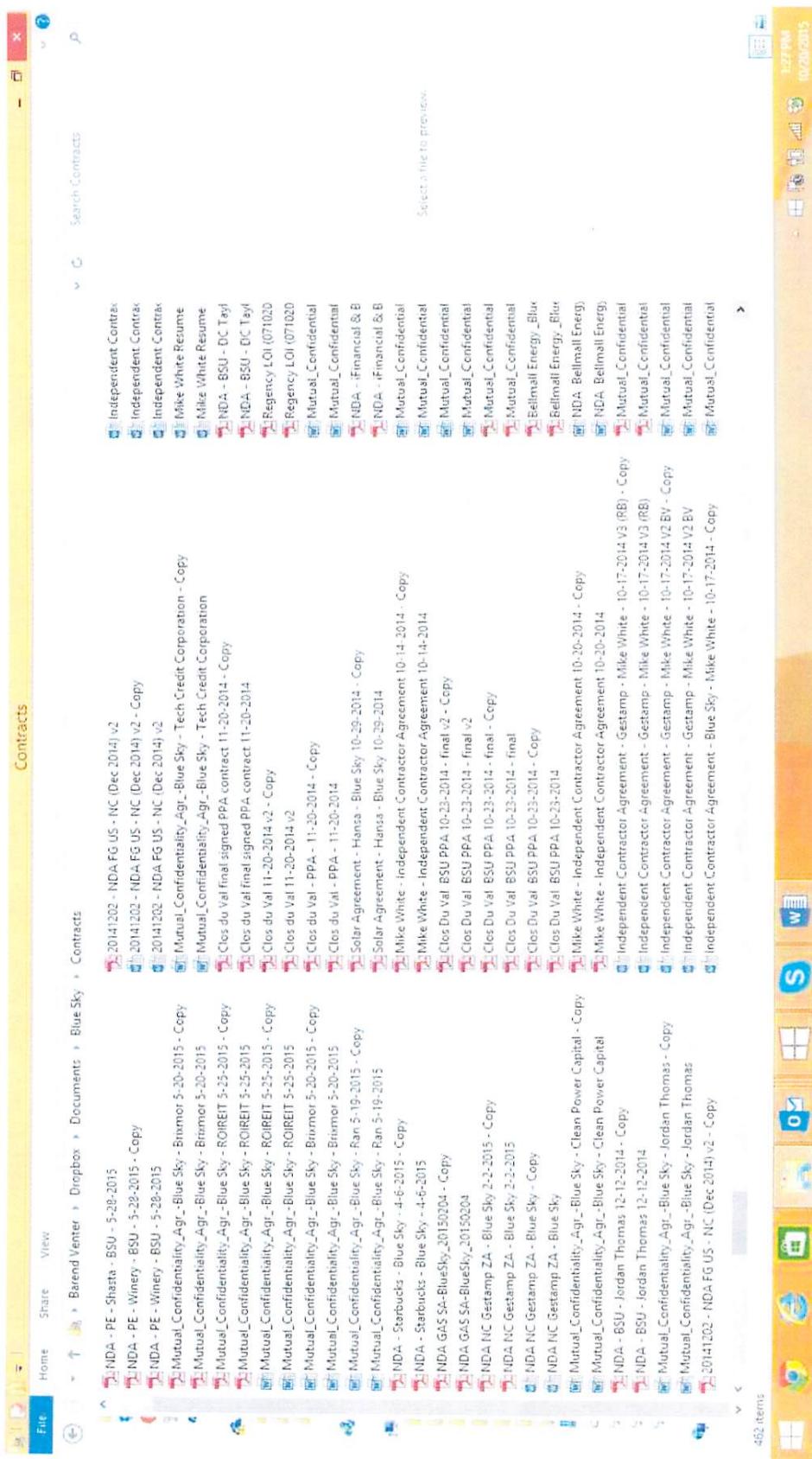
	Q4 2015	Q1 2016	Q2 2016	Q3 2016
Budget				
Staff				
Tenant Sign ups (Mike + Tim)	37.5	37.5	37.5	37.5
Corporate Contact Person (New)	37.5	37.5	37.5	37.5
Origination (New)			37.5	37.5
Client management		10	15	20
CEO (Barend)	TBD	TBD	TBD	TBD
COO/CFO (Ran)	TBD	TBD	TBD	TBD
Admin				
CRM Development	25	25	10	10
Bookkeeping	8	8	8	8
Accounting		10	2	
Tax		10	2	
Communication/IT/Computers	3	3	3	3
Legal				
Passco	10	2	1	1
North State	10	2	1	1
Brixmor	15	5	1	1
Phillips Edison	15	5	1	1
Other Client 1	5	5	5	5
Other Client 2	5	5	5	5
Other Client 3	5	5	5	5
Financing	15	10	10	10
General	6	6	6	6
Development				
Travel	6	6	6	6
Engineering	10	10	10	10
Total	<u>213</u>	<u>202</u>	<u>203.5</u>	<u>204.5</u>

EXHIBIT C

AFFILIATES TRANSACTIONS

Exhibit C

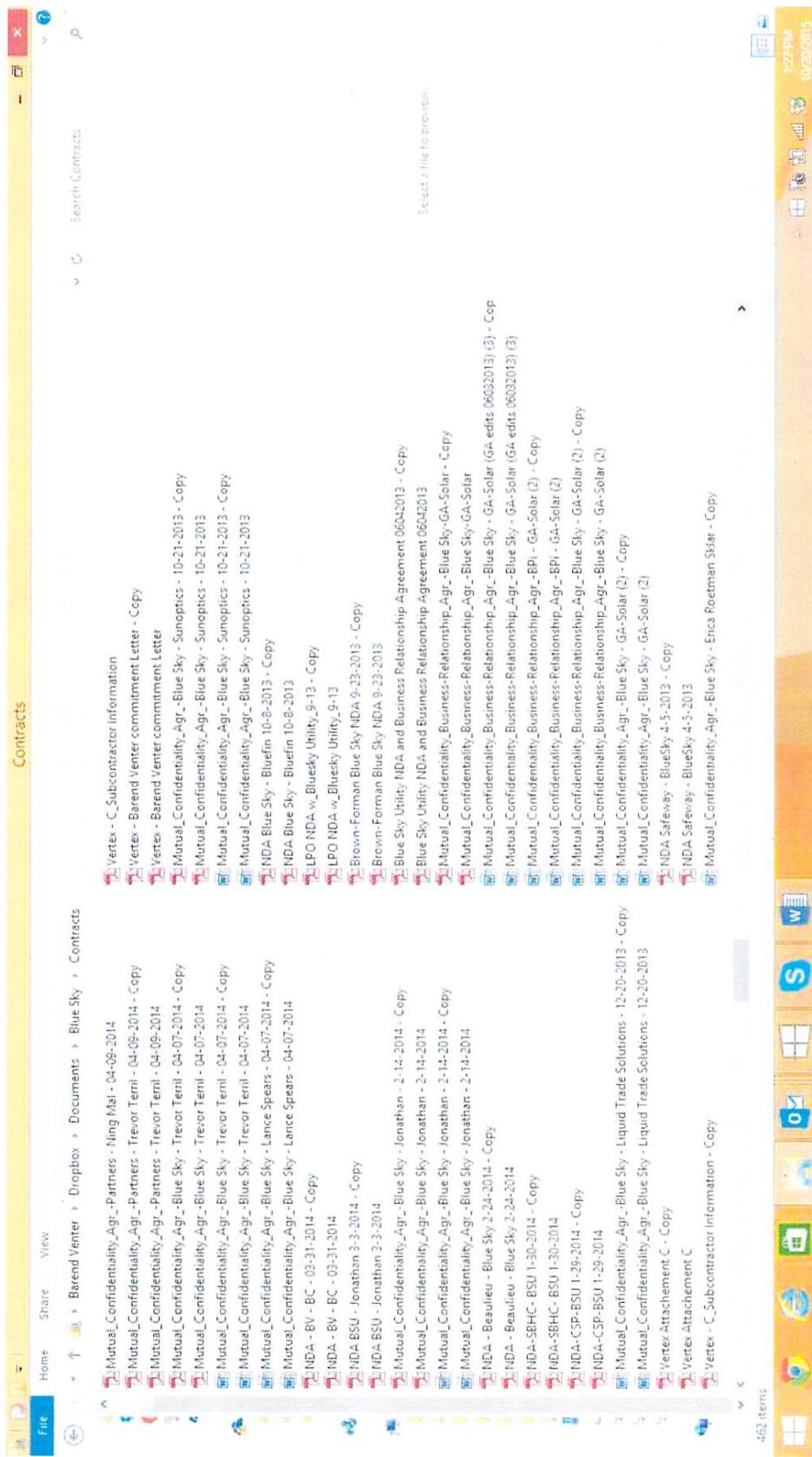




The screenshot shows a Microsoft OneDrive interface with the following folder structure:

- Home
- Share
- View
- Contracts
- Independent Contractor Agreement - Blue Sky - Mike White - 10-17-2014
- Independent Contractor Agreement - Gestamp - Blue Sky - 10-15-2014 - Copy
- Mike White Resume - Copy
- NDA - BSU - DC Taylor 10-8-2014 - Copy
- NDA - BSU - DC Taylor 10-8-2014 - Copy
- Regency LOI (07102014)10072014 - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - DCTaylor 10-01-2014 - Copy
- NDA - BB & BSU 9-26-2014 - Copy
- NDA - BB & BSU 9-26-2014 - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - DCTaylor 10-01-2014
- NDA - iFinancial & BSU 9-26-2014 - Copy
- NDA - iFinancial & BSU 9-26-2014
- Mutual_Confidentiality_Agr_ - Blue Sky - iFinancial - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - iFinancial - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - Ron Angold - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - Ron Angold
- Mutual_Confidentiality_Agr_ - Partners Ning Ma - 05-13-2014 - Copy
- Mutual_Confidentiality_Agr_ - Partners Ning Ma - 05-13-2014
- Mutual_Confidentiality_Agr_ - Partners Trevor Terrell - 05-06-2014 v3 - Copy
- Mutual_Confidentiality_Agr_ - Partners Trevor Terrell - 05-06-2014 v3
- Mutual_Confidentiality_Agr_ - Partners Trevor Terrell - 05-06-2014 v2 - Copy
- Mutual_Confidentiality_Agr_ - Partners Trevor Terrell - 05-06-2014 v2
- Mutual_Confidentiality_Agr_ - Partners Trevor Terrell - 04-09-2014 - Copy
- Mutual_Confidentiality_Agr_ - Partners Trevor Terrell - 04-09-2014
- NDA - Madison WH and Blue Sky 2014 - Copy
- NDA - Madison WH and Blue Sky 2014
- Bellmail Energy - Blue Sky Utility NDA Sept 2014
- NDA - Bellmail Energy - Blue Sky Utilities - August 2014 EV - Copy
- NDA - Bellmail Energy - Blue Sky Utilities - August 2014 EV
- Mutual_Confidentiality_Agr_ - Blue Sky - Mike & Brenden - signed - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - Mike & Brenden - signed
- Mutual_Confidentiality_Agr_ - Blue Sky - Mike & Brenden v2 - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - Mike & Brenden v2
- Mutual_Confidentiality_Agr_ - Blue Sky - Mike & Brenden - Copy
- Mutual_Confidentiality_Agr_ - Blue Sky - Mike & Brenden - Copy

The interface includes standard OneDrive navigation buttons (Back, Forward, Home, Share, View) and a search bar at the bottom right.



Contracts	
	File
Mutual_Confidentiality_Agr - Blue Sky - Stuart	View
2013-02-16 NDA Blue Sky - Bruce Lofchie - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Bruce Lofchie - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Bruce Lofchie - Copy	View
Agreement [tr Blue Utility-2 - Copy	View
Agreement [tr Blue Utility-2	View
NDA - BSU - RENERCO 6-12 - Copy	View
NDA - BSU - RENERCO 6-12	View
Mutual_Confidentiality_Agr - Blue Sky - Renesco - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Renesco	View
NDA - BSU - HYDROS - Copy	View
NDA - BSU - HYDROS	View
Mutual_Confidentiality_Agr - Blue Sky - Hydros Agtech Inc - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Hydros Agtech Inc	View
NDA BSU & GEE - Copy	View
NDA BSU & GEE - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC v2 - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC v2	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC - Copy	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC	View
Mutual_Confidentiality_Agr - Blue Sky - Good Earth Energy LLC	View
NDA - Blue Sky - Shoot Technologies Group 5-1-2012 v2 - Copy	View
NDA - Blue Sky - Shoot Technologies Group 5-1-2012	View
NDA - Blue Sky & Stuart - Copy	View
NDA - Blue Sky & Stuart	View
Mutual_Confidentiality_Agr - Blue Sky - Stuart - Copy	View
	Select a file to download.
	Search Contracts
452 items	

File Home Share View

Contracts

UC-BlueSky RE.R. agreement signed

NDA-Bellmayr-BSU-2011-12-07

NDA NCA Bellmayr (Dec2011 v 1.2 (2) - Blue Sky Utility - Copy

NDA NCA Bellmayr (Dec2011 v 1.2 (2) - Blue Sky Utility

NDA-DCT-1-NDA-2011-11-07 - Copy

BSU-DCT-1-NDA-2011-11-07 - Copy

DCTaylor-Bright NDA-2008-11-07 - Copy

DCTaylor-Bright NDA-2008-11-07

DCTaylor-Bright NDA - Copy

DCTaylor-Bright NDA

DCTaylor-Bright NDA - Copy

BSU - Georgian NDA - Copy

BSU - Blue Sky - Georgian

BSU - Blue Sky - Georgian

BSU - Georgian Mutual_Confidentiality_Agr 1-27-2012 - Copy

BSU - Georgian Mutual_Confidentiality_Agr 1-27-2012

BSU - Blue Sky - XARIS - Copy

BSU - Blue Sky - XARIS

Mutual_Confidentiality_Agr_ Blue Sky-XARIS - Copy

Mutual_Confidentiality_Agr_-Blue Sky-XARIS

Mutual_Confidentiality_Agr_-Blue Sky-XARIS - Copy

Mutual_Confidentiality_Agr_-Blue Sky-XARIS

NDA-BSU-AHURA-12-14-2011 - Copy

NDA-BSU-AHURA-12-14-2011

Mutual_Confidentiality_Agr_-Blue Sky-Ahura - Copy

Mutual_Confidentiality_Agr_-Blue Sky-Ahura

Mutual_Confidentiality_Agr_-Blue Sky-Ahura - Copy

Mutual_Confidentiality_Agr_-Blue Sky-Ahura

NDA-BSU-BRE-2011-12-07 - Copy

NDA-BSU-BRE-2011-12-07

NDA - BLUE SKY UTILITY - BULL RTE Dec2011 - Copy

NDA - BLUE SKY UTILITY - BULL RTE Dec2011

NDA - BlueSky RE.R. agreement signed - Copy

NDA-Bellmayr-BSU-2011-12-07 - Copy

UC-BlueSky RE.R. agreement clean - Copy

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Mutual_Confidentiality_Agr_-Blue Sky - Siliken USA

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ND4 Blue Sky (Modelo Isolux) v2

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PE - BSU - NDA (2)

ND4 - Bluesky - VERT

EPC Contract - Draft - RD

ND4 - Blue Sky - Sharp

ND4 - Bluesky - OneSun-02-22-11

Blue Sky Utility LLC Mutual NDA(final 5.15.11) - Copy

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NDA-Solyndra-BlueSky 5-15-11 - Copy

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BSU Blue Sky NDA (4)

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BB Blue Sky NDA (2)

NDA - BSU - FFS WEST

Mutual_Confidentiality_Agr_Blu Sky - EFS WEST

NDA - BSU - EnviroVault

Mutual_Confidentiality_Agr_Blu Sky - CES

NDA - Toshiba and Blue Sky

NPA - NYSA and BSU 10-7-2010

SOLAR NDA_NYSA-BLUESKY UTILITY 10-7-10

SNC - Blue Sky NDA - 9-28-2010

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Mutual_Confidentiality_Agr_UC - Solo Power

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MOU - Blue Sky and Gestamp - CA

NDA Blue Sky and Kanematsu

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NDA Blue Sky - Peter Stoll

Mutual_Confidentiality_Agr_Blu Sky - Kanematsu USA

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NDA Blue Sky and Battech

Blue Sky and Clean Energy, Inc.

Confidentiality Agreement GH3 2010 (3)

Mutual_Confidentiality_Agr_Blu Sky - Eskolar SA

Mutual_Confidentiality_Agr_Blu Sky - Affordable Solar

NDA - KASHONG - BLUE SKY

NDA - NDC - BLUE SKY 02-03-2010

Mutual_Confidentiality_Agr_C-Cole - Blue Sky

Mutual_Confidentiality_Agr_Caparica - Blue Sky

NDA - Blue Sky - Mike - Chuck

NDA - Blue Sky - Integrated Enginering

NDA - Blue Sky - SCS

NDA - Blue Sky - Blue Sky

NDA - Barrier - Blue Sky

Mutual_Confidentiality_Agr_Blu Sky - SES

Mutual_Confidentiality_Agr_Blu Sky - SES

Mutual_Confidentiality_Agr_Blu Sky - Barrier Roofing (2)

Mutual_Confidentiality_Agr_Blu Sky - Barrier Roofing

NDA Blue Sky (NDA 5-12-2010)

Blue Sky - Best - NDA

Mutual_Confidentiality_Agr_Blu Sky - Best Roofing

Mutual_Confidentiality_Agr_Blu Sky - Barrier Roofing

NDA - Eileen Solar - Blue Sky

Mutual_Confidentiality_Agr_Blu Sky - Eileen Solar

NDA - Sofocus - Blue Sky

NDA - Blue Sky & EnviroFinance

NDA - Diageo - Blue Sky

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NDA Lease - Letter of Agreement - 03-18-10

NDA Blue Sky - Gc - 03-10-10

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NDA CAPAFICA - BLUE SKY

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