

OPERATING AGREEMENT
OF
Tacos Dos Gringos, LLC

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THE LIMITED LIABILITY COMPANY INTERESTS (OR “UNITS”) OF THE COMPANY DESCRIBED IN AND GOVERNED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY APPLICABLE STATE SECURITIES LAWS. THE UNITS ARE RESTRICTED SECURITIES WITHIN THE MEANING OF RULE 144 PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THE UNITS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS (OR EXEMPTIONS THEREFROM) AND COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH IN THIS AGREEMENT OR IN A MORE RESTRICTIVE AGREEMENT, AS DEFINED IN THIS AGREEMENT.

OPERATING AGREEMENT

OF

Tacos Dos Gringos, LLC

This OPERATING AGREEMENT (“**Agreement**”) is made this 18th day of September 2024, by and between Alpha and Beta (collectively, the “**Members**” and each, individually, a “**Member**”).

Recitals

- A. The undersigned constitute all of the current Members of the Company.
- B. Each of the undersigned desires to enter into this Agreement, which is intended to constitute an operating agreement within the meaning of Minnesota Statutes Section 322C.0102, subdivision 17.

Agreement

In consideration of the foregoing and the mutual promises and agreements set forth below, the Members agree as follows:

Article 1

Definitions

The terms defined in this Article 1 (except as otherwise expressly provided in this Agreement or unless the context clearly requires otherwise) will, for purposes of this Agreement, have the following respective meanings:

- 1.1 “**Act**” means the Minnesota Revised Uniform Limited Liability Company Act (presently Minnesota Statutes Chapter 322C), as amended from time to time.

- 1.2 “**Additional Member**” means a Person who is admitted as a Member and issued a new Company Interest (as opposed to an Assignee of a Company Interest who is admitted as a Substitute Member).
- 1.3 “**Affiliate**” means with respect to any Person, (i) any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with the specified Person, (ii) any Person that is an executive officer, general partner, managing member or trustee of or serves in a similar capacity with respect to the specified Person, or an “Affiliate” of the specified Person under clause (i) above, or of which the specified Person is an executive officer, general partner, managing member or trustee, or with respect to which the specified Person serves in a similar capacity or (iii) any Person that, directly or indirectly, is the beneficial owner of 10% or more of any class of equity securities of or otherwise has a substantial beneficial interest in the specified Person, or of which the specified Person is the beneficial owner of 10% or more of any class of equity securities or otherwise has a substantial beneficial interest.
- 1.4 “**Agreement**” means this Operating Agreement, and all amendments, schedules, exhibits, and modifications hereto.
- 1.5 “**Articles of Organization**” means the Articles of Organization of the Company, as the same may be amended from time to time.
- 1.6 “**Assignee**” means a transferee of a Company Interest who has not been admitted as a Substitute Member. An Assignee is a Unitholder.
- 1.7 “**BBA Rules**” means Subchapter C of Chapter 63 of the Code (Sections 6221 et seq.), as enacted by the Bipartisan Budget Act of 2015, as amended from time to time, and any Regulations and other guidance promulgated thereunder, and any similar state or local legislation, regulations or guidance.
- 1.8 “**Capital Account**” means the account of a Unitholder established and maintained in accordance with the provisions of Section 4.1 of this Agreement.
- 1.9 “**Capital Contribution**” means the total amount of cash and/or the agreed upon fair market value of property (net of liabilities to which the property is subject or which are assumed by the Company) that is contributed to the Company by any Unitholder or all of the Unitholders in the aggregate (including contributions by predecessor Unitholders in the event of any assignment).
- 1.10 “**Code**” means the Internal Revenue Code of 1986, as amended, and any successor thereto. Any reference to specific sections of the Code will be to the Section as it now exists and to any successor provision.
- 1.11 “**Company**” means Tacos Dos Gringos, LLC.
- 1.12 “**Company Interest**” means the interest of a Unitholder in the Company, which interests are represented by Units.

- 1.13 “**Company Representative**” means for any relevant taxable year of the Company to which the BBA Rules apply, the Person appointed by the Company to act in the capacity of the “partnership representative” within the meaning of Section 6223(a) of the Code.
- 1.14 “**Covered Person**” means any past or present Member, any successors or heirs of a past or present Member, any past or present Affiliate of a past or present Member, or any past or present Officers, employees, consultants, representatives or agents of the Company, a past or present Member or its or their respective Affiliates, or any past or present employee, consultant, representative, agent or advisor of the Company, any past or present Member or any of its or their Affiliates.
- 1.15 “**Distribution**” means the total amount of cash and/or the fair market value of property distributed by the Company to a Unitholder (net of liabilities to which the property is subject or which are assumed by the Unitholder) at any time or from time to time with respect to his or her Company Interest.
- 1.16 “**Entity Taxes**” means any taxes imposed on the Company under the BBA Rules.
- 1.17 “**Member**” means a member of the Company as named herein and any Additional Member or Substitute Member admitted pursuant to this Agreement.
- 1.18 “**Member Approval**” means, unless otherwise specified in this Agreement, the vote or other agreement of Members holding a majority of the Voting Power.
- 1.19 “**More Restrictive Agreement**” has the meaning set forth in Section 13.14.
- 1.20 “**Officer**” means any officer of the Company appointed by the Members pursuant to Section 5.3.
- 1.21 “**Person**” means any natural person and any corporation, limited liability company, partnership, trust, association, or other legal entity.
- 1.22 “**Substitute Member**” means an Assignee who has been admitted to the Company with all of the rights of membership in the Company pursuant to the Agreement.
- 1.23 “**Transfer**,” with respect to any Company Interest, when used as a noun, means any sale, assignment, trade, transfer, bequest, encumbrance, pledge, hypothecation, gift or any other disposition of all or any portion of a Company Interest or any interest therein, and when used as a verb, means to sell, to assign, to trade, to transfer, to bequeath, to encumber, to pledge, to hypothecate, to give or in any other way to dispose of all or any portion of a Company Interest or any interest therein.
- 1.24 “**Unit**” means a Company Interest representing a proportionate interest in Distributions from the Company and in the gains, profits, and losses of the Company.
- 1.25 “**Unitholder**” means a Person that holds a Unit, whether or not such Person is a Member.

- 1.26 **“Voting Power”** means one vote per Unit held by a Member. Units held by Unitholders that are not Members have no Voting Power.

Article 2

Formation

- 2.1 **Formation of Limited Liability Company; Status as Member-Managed.** The Company has been organized as a limited liability company under the Act. It is intended that the Company be a member-managed limited liability company as defined in the Act. The rights and liabilities of the Members and the Officers and other agents of the Company will be as provided in the Act, except as otherwise expressly provided herein or in the Articles of Organization.
- 2.2 **Name.** The name of the Company is “Tacos Dos Gringos, LLC”, unless an amendment to the Company’s Articles of Organization has been authorized by Member Approval after the date of this Agreement and duly filed with the Minnesota Secretary of State.
- 2.3 **Members’ Names and Addresses.** The names and addresses of the Members as of the date of this Agreement are as set forth on **Schedule A**.
- 2.4 **Offices.** The registered office of the limited liability company will be located within the State of Minnesota as set forth in the Articles of Organization. The Company’s registered office as of the date of this Agreement is located at 229 S 19th Ave, Minneapolis Minnesota 55455. The registered office need not be identical with the principal executive office of the limited liability company and may be changed from time to time by Member Approval . The Company’s principal executive office will be located at 229 S 19th Ave Minneapolis, Minnesota, 55455, or such other place as may be determined from time to time by Member Approval. The Company may maintain such other offices at such other places as the Members deem advisable.
- 2.5 **Purposes.** The Company is formed for general business purposes consistent with the Act.
- 2.6 **Term.** Unless otherwise stated in the Articles of Organization or unless the Company is dissolved earlier in accordance with law, the period of existence of the Company is perpetual.
- 2.7 **Title to Company Property.** All property owned by the Company, whether real or personal, tangible or intangible, will be deemed to be owned by the Company as an entity, and no Unitholder, individually, will have any separate ownership interest in any such property.
- 2.8 **Waiver of Partition.** Each Unitholder hereby waives any and all rights such Unitholder may have to a partition of any Company property or properties.

Article 3

Capital Contributions

- 3.1 **Initial Capital Contributions.** As their initial Capital Contributions to the Company, the Members agree to make the Capital Contributions set forth on **Schedule A**, which is attached hereto and made a part of this Agreement, for which they will receive the number of Units set forth on **Schedule A**.
- 3.2 **Additional Capital Contributions; Nonassessability.** No additional Capital Contributions are presently contemplated or will be required. No Member will be required to make any Capital Contribution in excess of the amount stated in Section 3.1 unless agreed by all Members.
- 3.3 **No Right to Return of Capital Contribution.** No Unitholder has the right to withdraw or to demand the return of all or any part of the Capital Contribution attributable to such Unitholder's Company Interest, except as otherwise expressly provided herein. The Company will not be liable to Unitholders for repayment of Capital Contributions.
- 3.4 **Loans from Unitholders to Company.** Subject to any other restrictions contained herein, the Company may borrow money from one or more Unitholders at such interest rate or rates and upon such other terms as are agreed upon by the Company and the lending Unitholders; provided that the interest rate on any such loans may not exceed the rate that would apply to Company borrowing on similar terms from recognized banks or financial institutions.
- 3.5 **No Interest on Contributions.** No interest will be paid to any Unitholder on Capital Contributions.

Article 4

Allocations of Profits and Losses; Distributions

- 4.1 **Capital Accounts.**
- (a) The Company will maintain a separate Capital Account for each Unitholder. The Capital Account for each Unitholder will be increased by such Unitholder's Capital Contributions and decreased by Distributions made to such Unitholder. Each Unitholder's Capital Account also will be increased or decreased, as the case may be, to account for profits and losses (and items thereof required to be taken into account by applicable Treasury Regulations) that are allocated to such Unitholder.
 - (b) The Unitholders' Capital Accounts will also be maintained and adjusted as permitted by the provisions of Treasury Regulation § 1.704-1(b)(2)(iv)(f) and as required by the other provisions of Treasury Regulation §§ 1.704-1(b)(2)(iv) and 1.704-1(b)(4), including adjustments to reflect the allocations to the Unitholders of depreciation, depletion, amortization, and gain or loss as computed for book purposes rather than the allocation of the corresponding items as computed for tax purposes, as required by

Treasury Regulation § 1.704-1(b)(2)(iv)(g). As a consequence, the Unitholders' Capital Accounts will be increased or decreased to reflect a revaluation of the Company's property on its books, based on the fair market value of the Company's property on the date of adjustment, immediately prior to (A) the contribution of money or other property to the Company by a new or existing Unitholder as consideration for an additional Company Interest, (B) the Distribution of money or other property by the Company to a Unitholder as consideration for a Company Interest, (C) the liquidation of the Company. The Unitholders' Capital Accounts will be further adjusted as appropriate to reflect the Unitholders' Company Interests upon the exercise of any option or conversion right by which a Unitholder acquires, or changes the nature and rights of, a Company Interest.

- 4.2 **Allocations of Profit and Losses.** Profits and losses of the Company will be allocated among the Unitholders in proportion to their Units.
- 4.3 **Allocations to Reflect Book/Tax Differences.** For income tax purposes, income, gain, loss, and deduction with respect to property contributed to the Company by a Unitholder or revalued pursuant to Treasury Regulation § 1.704-1(b)(2)(iv)(f) will be allocated among the Unitholders in a manner that takes into account the variation between the adjusted tax basis of such property and its book value, as required by Section 704(c) of the Code and Treasury Regulation § 1.704-1(b)(4)(i), using such allocation method permitted by Treasury Regulations as is determined by the Unitholders. Any allocations made solely to comply with this Section 4.3 and the Code will not be reflected in Capital Account adjustments.
- 4.4 **Distributions Prior to Liquidation.** Except as otherwise limited by contractual obligations of the Company, on or before April 1 of each year the Company will distribute among the Unitholders an amount equal to (a) the product of (i) the sum of the Company's net ordinary income and net capital gain for the preceding year multiplied by (ii) the maximum combined marginal federal and Minnesota individual income tax rate, reduced by (b) the amount of any Distributions previously made with respect to such prior year's income. **Additional** current Distributions may be made from time to time as determined by the Member Approval. Distributions pursuant to this Section 4.4 will be made among the Unitholders in proportion to the number of Units held by each of them. Except as provided in Section 4.7, all Distributions to Unitholders prior to the liquidation, winding up, and dissolution of the Company will be in cash.
- 4.5 **Distributions Upon Dissolution and Winding Up.** At the time of the dissolution and winding up of the Company, following the allocation of all net income and net losses and the payment of all Company obligations, the remaining assets will be distributed to the Unitholders in accordance with Section 9.2.
- 4.6 **No Distribution by Reason of Withdrawal.** Neither withdrawal from the Company, Transfer of any Company Interest, nor demand for the return of capital will entitle any owner of a Company Interest to receive any Distribution from the Company.

- 4.7 **Distributions in Kind.** No Unitholder has any right to demand or receive a Distribution from the Company in any form other than cash. No Member may be compelled to accept any Distribution of property in kind except under circumstances where all Unitholders receive undivided interests in property or substantially equivalent interests in property on the basis of their Capital Accounts. If there is a Distribution of property in kind, such property will be assumed to have been sold at its fair market value at the time of the Distribution, and the resulting gain or loss will be allocated among the Unitholders in the manner set forth in Section 4.2, and their Capital Accounts will be adjusted accordingly.
- 4.8 **Effect of Transfer on Allocations of Profits and Losses and Distributions.** Profits and losses of the Company allocable to any Company Interest Transferred during a year will be allocated between the transferor and the transferee based upon the length of time during any fiscal year of the Company, as measured by the effective date of the Transfer, that the Company Interest was owned by each of them, or, upon Member Approval, based upon a cut-off of the Company's books as of the effective date of the Transfer. All Distributions after the effective date of the Transfer will be made to the transferee. Any agreement between the transferor and the transferee should take into account the extent that such Distributions may be attributable to the results of operations during the time that the interest was owned by the transferor.
- 4.9 **Withholding.** The Company may withhold taxes from Distributions to Unitholders to the extent that the Officers, subject to approval by the Members, determine that such withholding is required by law.

Article 5 Management

- 5.1 **Management.** Except as otherwise specified herein, the right to make decisions concerning the management of the Company is reserved to the Members acting by Member Approval.
- 5.2 **Modifications to Member Approval Authority.** In addition to any other matters specified in this Agreement:
- (a) The following actions will require the vote or agreement of all Members:
 - (i) Doing any act in contravention of this Agreement or which would make it impossible to carry on the ordinary business of the Company;
 - (b) The following actions will require the vote or agreement of Members holding 100% of the Voting Power:
 - (i) Selling, leasing, exchanging, or otherwise disposing of all, or substantially all, of the Company's property, with or without the goodwill, outside the ordinary course of the Company's activities[; provided that the following will require vote or agreement of Members holding 100% of the Voting Power:

- (1) Granting a security interest and/or mortgage in all or substantially all of the Company's property and assets, whether or not in the usual and regular course of its business; or
 - (2) Transferring any or all of the Company's property to an organization all the ownership interests of which are owned directly or indirectly through organizations that are wholly-owned by the Company];
 - (ii) Approving a merger, conversion, or domestication under Sections 322C.1001 to 322C.1015 of the Act;
 - (iii) Undertaking any other act outside the ordinary course of the Company's activities;
 - (iv) Admitting a Person as a Member, except as provided in this Agreement;
- 1.2 **Officers.** By Member Approval the Members may appoint Officers to act as agents for the Company. The Officers will perform such duties and have such powers as are authorized by Member Approval.
- 1.3 **Removal of Officers.** The Members, at any time, may remove or terminate the authority of any Officer by Member Approval.
- 1.4 **Signature Authority.** The Members may authorize such Officers or agents as the Members designate by Member Approval to enter into contracts or execute and deliver instruments in the name of and on behalf of the Company, and such authority may be general or confined to specific instances. Unless determined otherwise by Member Approval, all contracts, deeds, or other instruments or documents will require only one signature and may be signed on behalf of the Company by any Member granted such authority by Member Approval. Except as authorized by Member Approval, no individual Member, Officer or agent, as such, has any right or power to act on behalf of or to bind the Company.
- 1.5 **Compensation and Other Payments to Officers and Affiliates.** The compensation, if any, of Members, Officers and agents will be fixed by Member Approval; provided that the compensation of any Member will be subject to the unanimous consent of the Company's Members.
- 1.6 **Reimbursement of Expenses.** Except to the extent otherwise provided for in this Agreement, and except for items generally constituting Members' overhead, the Company will pay all costs and expenses associated with Company business, and will reimburse Members and Officers for the actual costs incurred for goods, materials, and services used by or for the Company.

1.7 Indemnification and Liability of Members and Officers.

(a) **Liability.**

- (i) Except as otherwise provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, will be solely the debts, obligations and liabilities of the Company, and no Covered Person will be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Covered Person.
- (ii) No Member will have any liability for the debts and obligations of the Company by reason of being a Member of the Company except as provided by applicable law.

(b) **Exculpation.**

- (i) No Covered Person will be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement or applicable law, except that a Covered Person will be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence, willful misconduct or material violation of this Agreement.
- (ii) A Covered Person will 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 Person as to matters the Covered Person reasonably believes are within such other Person'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, losses, or any other facts pertinent to the existence and amount of assets from which Distributions to Members might properly be paid.

- (c) **Duties and Liabilities of Covered Persons.** To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company or to any other Covered Person, a Covered Person acting under this Agreement will not be liable to the Company or to any other Covered Person for his, her or its good faith reliance on the provisions of this Agreement.

- (d) **Indemnification.** To the fullest extent permitted by applicable law, a Covered Person will be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the

Company and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, except that no Covered Person will be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence or willful misconduct with respect to such acts or omissions or material violation of this Agreement; *provided, however*, that any indemnity under this Section 5.8(d) will be provided out of and to the extent of Company assets only, and no Covered Person will have any personal liability on account thereof.

- (e) **Expenses.** To the fullest extent permitted by applicable law, expenses (including reasonable legal fees) incurred by a Covered Person in defending any claim, demand, action, suit or proceeding will, from time to time (within 30 days following receipt of an invoice therefor), be advanced by the Company prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Company of an undertaking by or on behalf of the Covered Person to repay such amount if it is later determined that the Covered Person is not entitled to be indemnified as authorized in Section 5.8(d).
- (f) **Insurance.** The Company may purchase and maintain directors and officers insurance to the extent and in such amounts as the Board deems reasonable, on behalf of Covered Persons and such other Persons as the Board may determine, against any liability that may be asserted against or expenses that may be incurred by any such Person in connection with the activities of the Company or such indemnities, regardless of whether the Company would have the power to indemnify such Person against such liability under the provisions of this Agreement. The Company may enter into indemnity contracts with Covered Persons and adopt written procedures pursuant to which arrangements are made for the advancement of expenses and the funding of obligations under Section 5.8(d) and containing such other procedures regarding indemnification as are appropriate. In addition, the Company may obtain key person life insurance on such individuals and in such amounts as may be approved by Member Approval from time to time.

- 1.8 **Rules of Procedure.** By Member Approval the Members may adopt rules of procedure for conducting meetings of the Members, provided that such rules are not inconsistent with the Articles of Organization, this Agreement, or law. In the absence of rules adopted by the Members, the Member or such other Person as presides over such meeting may establish rules of procedure for conducting Member meetings, provided such rules are not inconsistent with the Articles of Organization, this Agreement, or law.

Article 2

Books and Records; Tax Matters

- 2.1 **Tax Characterization.** The Members intend that the Company be treated as a "partnership" for tax purposes at all times when there are sufficient Unitholders to do so

and as a disregarded entity at times when there are not sufficient Unitholders to be treated as a “partnership.”

- 2.2 **Accounting Method and Fiscal Year.** The Company will keep its accounting records and will report its income for income tax purposes. The fiscal year of the Company will end on October 31 or on such other date as the Members will designate.
- 2.3 **Books and Records.** The Company’s books and records will reflect all Company transactions and be appropriate and adequate for all Company business. The Company’s books and accounting records and all other papers, records, and documents relating to the Company’s affairs will be kept at the Company’s principal executive office or such other place as the Members may determine.
- 2.4 **Annual Financial Statements.** Within 90 days after the close of each fiscal year, annual financial statements for the Company, including statements of assets and liabilities, income statements, and such other statements as are commonly included in financial statements, or as may be requested by the Members, will be prepared and delivered to each of the Members.
- 2.5 **Tax Returns.** As soon as possible following the close of each year of the Company during which there are sufficient Members to treat the Company as a partnership, the Members will cause the partnership income tax return for the Company to be prepared. In addition, within 90 days after the end of each such fiscal year, or as soon thereafter as possible, or such later time as may be set by Member Approval, the Company will cause to be delivered to each Person who was a Member and was taxed as a “partner” for federal income tax purposes at any time during such fiscal year a Schedule K-1 and such other information, if any, with respect to the Company as may be necessary for the preparation of such Member’s federal or state income tax (or information) returns, including a statement showing each Member’s share of income, gain, loss, and credits for such fiscal year for federal or state income tax purposes.
- 2.6 **Tax Elections.** The Company will make or not make any and all tax elections as determined by Member Approval, including, if there is a Transfer of all or part of any Member’s Company Interest, the election under Section 754 of the Code to adjust the bases of the assets of the Company.
- 2.7 **Tax Audits.**
 - (a) With respect to all taxable years to which the BBA Rules apply, the Company Representative shall be permitted to take any and all actions under the BBA Rules, and shall have any and all powers necessary to perform fully in such capacity subject to the provisions of this Section 6.7. In such regard, the authority of the Company Representative shall include, without limitation, the authority to (i) represent the Company before tax authorities and courts in tax matters affecting the Company and the Unitholders in their capacity as such, (ii) make an election under Section 6226 of the BBA Rules, (iii) make the decision whether to elect out of the partnership audit rules under Section 6221(b) of the BBA Rules,

(iv) file an administrative adjustment request under Section 6227 of the BBA Rules, (v) file suit under Section 6234 of the BBA Rules, (vi) settle any tax disputes or other proceedings with any tax authority, and (vii) extend the period of limitations for adjustment of tax under Section 6235 of the BBA Rules or applicable state or local law; provided, however, that the Company Representative may take the actions described above in clauses (ii) through (vii) only with Unanimous Member approval. In addition, the Company Representative may make an election under Section 6225(c)(2) of the BBA Rules only with Unanimous Member Approval. The Company Representative shall consult regularly with the Company concerning the Company Representative's audit and litigation strategy.

- (b) The Company Representative, shall be entitled to be reimbursed by the Company for all costs and expenses incurred by it in connection with any administrative or judicial proceeding affecting tax matters of the Company and the Unitholders in their capacity as such and to be indemnified by the Company (solely out of Company assets) with respect to any action brought against it in connection with a judgment in or settlement of any such proceeding. The Company Representative, shall not be liable to the Company or any Unitholder for any act or omission taken or suffered by it in such capacity in good faith and in the belief that such act or omission is in or is not opposed to the best interests of the Company; provided, however, that such act or omission is not in violation of this Agreement and does not constitute gross negligence, fraud or a willful violation of law.
- (c) Any Unitholder or former Unitholder that is in dispute with any tax authority in relation to a matter relating to the Company shall notify the Company Representative, within 30 days or as promptly as practicable thereafter following the occurrence of the dispute, and if the Company Representative, reasonably determines that the matter is materially relevant to the tax position of the Company, such Unitholder or former Unitholder shall consult in good faith with the Company Representative (or any advisor appointed by the Member Approval for the purpose) as to how that dispute is to be handled. Any Unitholder or former Unitholder that enters into a settlement agreement with respect to any Company item shall notify the Company Representative, of such settlement agreement and its terms within 30 days after the date of settlement. Each Unitholder or former Unitholder shall provide the Company Representative any tax information reasonably requested (including providing information in connection with Section 743 of the Code) so that the Company Representative can implement the provisions of this Section 6.7 (including by making any election permitted hereunder), can file any tax return of the Company, and can conduct any tax audit or similar proceeding of the Company.
- (d) The Company, by Member Approval, may designate any Person to act as the Company Representative for each fiscal year of the Company. Unless the Company appoints another Member to act as the Company Representative, Beta will act on behalf of the Company as the Company Representative. The Company shall notify each Unitholder of the identity of the Company Representative if it

appoints a Person other than Beta to act as the Company Representative. The Company, by Member Approval, may revoke the designation of a Company Representative in its discretion at any time to the extent permitted by the BBA Rules. If the Company Representative as designated pursuant to the preceding portion of this Section 6.7(d) is not an individual, the Members, by Member Approval, shall designate an individual to act on the Company Representative's behalf. Any Person designated as a Company Representative other than by Member Approval shall have no rights under this Agreement.

- (e) With respect to audits governed by the BBA Rules, the Company Representative shall provide notice to all current Unitholders and to Persons who were Unitholders at any time during any tax years included in an audit or other proceeding under the BBA Rules of the receipt of notice that the Internal Revenue Service or other taxing authority has begun an examination of the Company's income tax return or books and records. Further the Company Representative shall regularly update such Unitholders and former Unitholders on the progress of an audit or court proceedings and shall provide all such Unitholders and former Unitholders notice of the items described in clauses (ii) through (vii) in Section 6.7(a).
- (f) If the Company has not elected out of the operation of the BBA Rules under Section 6221(b) of the BBA Rules the Company receives a Final Partnership Adjustment Notice as described in Section 6226 of the BBA Rules, the Company Representative shall cause the Company to make a timely election under Section 6226(a) of the BBA Rules with respect to the alternative to payment of any imputed underpayment by the Company and take other action such as filings, disclosures, and notifications necessary to effectuate such election. At the direction of the Company, the Company Representative shall request any applicable modifications to any imputed underpayment that are available under Section 6225(c) of the BBA Rules, which would benefit the Unitholders.
- (g) If the Company is subject to any tax liabilities under the BBA Rules (or any similar state and local authority), Beta shall allocate among the Unitholders any tax liability imposed under the BBA Rules in the manner in which income, gain, loss, deduction and credit was allocated among the Unitholders for the reviewed year pursuant to the terms of this Agreement (or any predecessor agreement), to the greatest extent possible, and otherwise in a manner that Beta determines to be fair and equitable, taking into account any modifications attributable to a Unitholder pursuant to Section 6225(c) of the BBA Rules (if applicable) and any similar state and local authority. Any tax liabilities so allocated shall be treated as deemed Distributions. To the extent that a portion of the tax liabilities imposed under the BBA Rules for a prior year relates to a former Unitholder, the Company may require such former Unitholder to indemnify the Company for its allocable portion of such tax. Each Unitholder or former Unitholder shall promptly pay to the Company all Entity Taxes for which such Unitholder or former Unitholder is responsible in accordance with this Agreement upon written request by the Company. Each Unitholder acknowledges that, notwithstanding the Transfer of

all or any portion of its Company Interest, pursuant to this Section 6.7(g) it may remain liable for tax liabilities with respect to its allocable share of income and gain of the Company for the Company's taxable years (or portions thereof) prior to such Transfer, as applicable, under the BBA Rules. The Unitholders acknowledge and agree that the Company and the Company Representative shall be permitted to take any actions to avoid Entity Taxes being imposed on the Company or any of its subsidiaries under the BBA Rules. Each Unitholder agrees that, notwithstanding the Transfer of all or any portion of its Company Interest, if requested by the Company, it shall provide the appropriate Internal Revenue Service Form W-8 or W-9 or any other certificate or documentation, which, the Company or the Company Representative reasonably determines, is necessary to reduce Entity Taxes. Former Unitholders agree to keep the Company apprised of any address changes so that the Company has current contact information.

- (h) Each Unitholder agrees that such Unitholder shall not treat any Company item on such Unitholder's federal, state, foreign or other tax return in a manner that is inconsistent with the treatment of the item on the Company's return. Any deficiency for taxes imposed on any Unitholder (including penalties, additions to tax or interest imposed with respect to such taxes and taxes imposed pursuant to Section 6226 of the BBA Rules) will be paid by such Unitholder and if required to be paid (and actually paid) by the Company, will be recoverable from such Unitholder as provided in Section 6.7(g).
- (i) Each Unitholder agrees to cooperate with the Company and the Company Representative, and shall take such actions as may be requested by the Company or the Company Representative, with respect to a modification of any tax liabilities under the BBA Rules (or any similar state and local authority), including paying any imputed underpayment pursuant to an election under Section 6226 of the BBA Rules and filing amended tax returns and paying any tax due in accordance with Section 6225(c)(2) of the BBA Rules, it being understood that no such amended tax return shall be filed in accordance with such Section with respect to the Company without the advance written consent of the Partnership Representative, and to provide, and certify to, such information as the Company or the Company Representative determines is necessary or appropriate for the Company to request such a modification.
- (j) This Section 6.7 shall survive the termination of this Agreement. Notwithstanding anything to the contrary in this Agreement, the liability and obligations of each Unitholder under this Section shall survive any transfer of any Company Interest by such Unitholder or such Unitholder otherwise ceasing to be a Unitholder.

Article 3

Transfers of Company Interests

- 3.1 **Limitation on Transfer.** Except as otherwise provided in this Article 7, if there is at least one Member and there is more than one Unitholder, no Unitholder may Transfer all or any portion of its Company Interest except with the written consent of all Members.
- 3.2 **Formal Requirements for Assignment.** When otherwise permitted, a Unitholder may Transfer a Company Interest only by a written assignment that (i) is not in contravention of any of the provisions of this Agreement; (ii) has been duly executed and acknowledged by the assignor and Assignee, with the approval of all of the Company's Members which approval will be in the sole and absolute discretion of the Members; (iii) is to an Assignee who represents that he satisfies specific suitability standards applicable to the assigning Unitholder as may from time to time be established by Member Approval; and (iv), if required by Member Approval, legal counsel for the Company has rendered its opinion, in form and substance satisfactory to the Members and at the expense of the prospective Assignee or assignor, that such assignment would not cause the termination of the Company for federal income tax purposes (unless termination is consented to by the president) or the taxation of the Company as a corporation.
- 3.3 **Continuation of Assignor's Status.** Anything herein to the contrary notwithstanding, the Company, its Officers, and the Members will be entitled to treat the assignor of a Unitholder's Company Interest as the absolute owner thereof in all respects, and will incur no liability for Distributions of cash made in good faith to him or her until such time as a written assignment that conforms to all requirements of this Article 7 has been received by and recorded on the books and records of the Company. Until such time, any payments by the Company to an assigning Unitholder or such Unitholder's executors, administrators, or representatives will, to the extent of such payments, acquit the Company of liability to any other Person who may have an interest in such payment by reason of an assignment by the Unitholder, such Unitholder's death, or otherwise.
- 3.4 **Assignee's Rights.** An Assignee of any Unitholder's interest will be entitled to receive Distributions of cash or other property from the Company and to receive allocations of the gains, profits, and losses of the Company attributable to such interest after the effective date of the assignment. The "effective date" of an assignment will be that date set forth on the written instrument of assignment, which may in no event be any earlier than the date upon which the requirements of this Article 7 have been satisfied.
- 3.5 **Requirements for Admission as a Substitute or Additional Member.** An Assignee of a Company Interest, if not already a Member, may become an Additional Member or Substitute Member only with the consent of the Members, which consent may be granted or withheld in the sole discretion of the Members. No Assignee of any Unitholder's Company Interest who is not already a Member will become a Substitute Member or Additional Member with respect to such interest without such consent.
- 3.6 **Documents and Expenses.** As a condition to admission as a Substitute Member or Additional Member, an Assignee of all or a part of any Company Interest or the legatee

or distributee of all or part of any Company Interest will execute and acknowledge such instruments, in form and substance satisfactory to the Company, as the Company deems necessary or advisable to effectuate such admission and to confirm the agreement of the Person being admitted as such Substitute Member or Additional Member to be bound by all of the terms and provisions of this Agreement. Such Assignee, legatee, or distributee will pay all reasonable expenses in connection with such admission as a Substitute Member or Additional Member, including, but not limited to, legal fees and costs of preparing and filing any amendment to the Articles of Organization of the Company if necessary or desirable in connection therewith.

- 3.7 **Acquit Company.** Until such time as a written assignment that conforms to all requirements of this Article 7 has been received by and recorded on the books of the Company, any payment by the Company to an assigning Unitholder or such Unitholder's executors, administrators, or representatives will acquit the Company of liability to the extent of such payments to any other Person who may have an interest in such payment by reason of an assignment by the Unitholder, such Unitholder's death, or otherwise.

3.8 **Expulsion.**

- (a) A Member will be expelled without further action upon the Transfer of all of the Member's transferable interest in the Company, as defined in Section 322C.0102 of the Act, other than: (i) a Transfer for security purposes that is permitted under this Agreement, or (ii) a charging order in effect under Section 322C.0503 of the Act that has not been foreclosed.

Article 4 Additional Members

Additional Members may be admitted to the Company upon such terms and conditions, and for such Capital Contributions, as are approved by all Members. Upon the termination of the last or sole Member of the Company, the legal representative of that last or sole Member may cause the Company to admit one or more Additional Members.

Article 5 Dissolution; Continuation

- 5.1 **Dissolution Events.** The Company will continue until the occurrence of any of the following events (each a "**Dissolution Event**"):

- (a) The expiration of the Company's period of existence, if any, set forth in the Articles of Organization;
- (b) The sale or other disposition of all or substantially all of the Company's assets;
- (c) The death, retirement, resignation, expulsion, bankruptcy, or dissolution of a Member, or the occurrence of any other event which terminates the continued membership of a Member, but in each case only if there is no

other Member of the Company remaining after such termination of membership and no new Member is admitted within 90 days after the termination of the last or sole Member of the Company;

- (d) The agreement of the Members holding 100% of the Voting Power to dissolve and terminate the Company; or
- (e) The decree of a court of competent jurisdiction that dissolution and liquidation is required.

5.2 **Dissolution and Liquidation Procedure.** Except as otherwise provided by the Act, upon the occurrence of a Dissolution Event, no further business will be done in the name of or on behalf of the Company except insofar as may be necessary to wind up the business of the Company and distribute its assets to the Members or their successors in interest, and the Company will execute and file a notice of dissolution as required by the Act. Upon dissolution and termination of the Company, except as otherwise provided by applicable law, the Company's assets will be applied in the following order:

- (a) To the payment of the debts and obligations of the Company, including, to the extent permitted by law, obligations to Unitholders who are creditors, in the order prescribed by law;
- (b) Next, to the setting up of any reserves deemed reasonably necessary by Member Approval for any contingent or unforeseen liabilities or obligations of the Company;
- (c) Next, to the Unitholders who are creditors for any debts and liabilities not permitted to be paid under Section 9.2(a) above; and
- (d) Next, to the Unitholders in accordance with their respective Units.

For purpose of determining the rights of Unitholders to Distributions in dissolution, in the event of a Distribution of property in kind, such property will be assumed to have been sold at its fair market value, with any gain or loss allocated to the Unitholders in accordance with Article 4 above. If a Unitholder is indebted to the Company, the Company will, if possible, offset such indebtedness to satisfy its obligations to said indebted Unitholder rather than distribute a portion of said indebtedness to the other Unitholder(s).

Article 6

Meetings of Members; Voting

6.1 **Voting Power and Exercise of Voting Power.** A Member may exercise Voting Power in person or by proxy, but no appointment of a proxy will be valid for any purpose more than 11 months after the date of its execution, unless a longer period is expressly provided in the appointment. Every appointment of a proxy must be (a) in writing, signed by the Member, or (b) by telephonic transmission or authenticated electronic communication, which sets forth or is submitted with information from which it can be determined that the appointment was authorized by the Member. An appointment of a

proxy must be filed with an Officer of the Company before or at the meeting at which the appointment is to be effective. An appointment of a proxy for an interest held jointly by two or more Members will be valid if signed by any one of them, unless an Officer of the Company receives from any one of such Members written notice either denying the authority of another of such Members to appoint a proxy or appointing a different proxy. All questions regarding the qualification of voters, the validity of appointments of proxies, and the acceptance or rejection of votes will be decided by the presiding Governor or Officer of the meeting. With respect to any matter subject to vote by the Members, the Members will take action by the affirmative vote of the owners of a majority of the Voting Power of the Members present, in person or represented by proxy, except where a different vote is required by law, the Articles of Organization, or this Agreement.

- 6.2 **Meetings of Members.** All meetings will be held at the principal office of the Company or at another location that is reasonably convenient for the Members as a whole. Any meeting of the Members may be conducted solely, or with the participation of one or more Members, by one or more means of remote communication, including electronic communication, conference telephone, video conference, the internet, or such other means by which persons not physically present in the same location may communicate with each other on a substantially simultaneous basis, through which all of the Members may participate in the meeting. Participation in a meeting in this manner constitutes presence at a meeting.
- 6.3 **Quorum.** Members holding a majority of the Voting Power, present in person or represented by proxy, are a quorum for the transaction of business at a meeting of the Members. If a quorum is not present at the commencement of a meeting, Members holding a majority of the Voting Power, present in person or represented by proxy, may adjourn the meeting to a date, time, and place they announce at the time of adjournment. Any business that might have been transacted at the adjourned meeting had a quorum been present, may be transacted at the meeting held pursuant to such an adjournment, if a quorum is present at the meeting held pursuant to such an adjournment. If a quorum is present when a duly called or held meeting is convened, the Members present may continue to transact business until adjournment, even though the withdrawal of Members holding Voting Power originally present leaves less than the number otherwise required for a quorum.
- 6.4 **Calling of Meetings; Notice.** Except where a meeting of Members is an adjourned meeting and the date, time, and place of such meeting were announced at the time of adjournment, meetings of the Members for any purpose may be called by a Member or Members holding 10% or more of all outstanding Units by written notice to all Members. Such notice of any such meeting will be given to the Members entitled thereto in any manner permitted by law, not less than three days or more than 60 days before the date of the meeting, and will state the place, date, hour, and purpose of the meeting. If a plan of merger, conversion or exchange or the sale or other disposition of all or substantially all of the assets of the Company is to be considered at a meeting of Members, notice of such meeting will be given to every Member, whether or not entitled to vote, and will be in writing. The notice of meeting at which there is to be considered a proposal to adopt a

plan of merger, conversion or exchange will be given not less than 14 days prior to the date of such meeting, will state the purpose of such meeting, and, where a plan of merger, conversion or exchange is to be considered, will include a copy or a short description of the plan. Notice by mail will be deemed given when deposited in the United States mail with sufficient postage affixed. Notice will be deemed received when it is given.

- 6.5 **Waiver of Notice of Meeting.** Any Member may waive notice of any meeting of Members. A waiver of notice is effective whether given before, at, or after the meeting, and whether given orally, in writing, by attendance, or by any other means authorized by law. Attendance by a Member at a meeting is a waiver of notice of that meeting, except where the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of that item at the meeting.
- 6.6 **Actions by Written Consent.** Any action required or permitted to be taken at a meeting of Members may be taken without a meeting by written action signed by the Members possessing the Voting Power that would be required to take the same action at a meeting of Members at which all Members were present. For purposes of this Article 10, an electronic signature satisfies the requirement of a signature so long as the electronic communication containing the electronic signature sets forth sufficient information from which the Company can reasonably conclude that the communication was actually sent by the purported sender. If any written action is taken by less than all Members entitled to vote, all Members entitled to vote will be notified immediately of its text and effective date. The failure to provide such notice, however, will not invalidate such written action.

Article 7

Amendments

This Agreement may be amended at a meeting of the Members called for such purpose upon the approval of Members holding not less than seventy-five percent (75%) of the Voting Power or by written agreement or written action of Members whose approval at a meeting would be sufficient to accomplish such amendment; provided, however, that any amendment that would have any of the following effects must be consented to in writing by each Member whose rights or obligations, as expressly provided in this Agreement, would be directly and adversely affected by such amendment:

- (a) An increase to a Member's obligation to make Capital Contributions to the Company or a decrease to the Capital Account of a Member;
- (b) A change in the allocations of profits and losses of the Company;
- (c) A change in the manner of determining how Distributions are shared among Members of the Company;

- (d) A change in the right of a Member to assign a Company Interest or in any rights provided in this Agreement to substitute another Person as a Member;
- (e) A change in the voting rights of Members; or
- (f) A change in the provisions for amending this Agreement.

In addition, any change that may materially and adversely affect the ability of the Company to be taxed as a partnership for federal income tax purposes will require unanimous approval of the Members, regardless of Voting Power. Notwithstanding anything in this Agreement to the contrary, the Members, by Member Approval, may amend or waive any provision of this Agreement to reflect a change in any provision of this Agreement to avoid Entity Taxes being imposed on the Company or any of its subsidiaries under the BBA Rules.

Article 8

Special Provisions Regarding Member Actions and Authorizations

Notwithstanding any contrary provision of this Agreement (a) for all periods during which there is a single Member of the Company, any action of such Member will be a duly authorized action by and on behalf of the Company, and (b) any action that has been unanimously approved by the Members will be a duly authorized action of the Company.

Article 9

Miscellaneous

- 9.1 **Other Business Ventures.** Any Member may engage in or possess an interest in other business ventures of every nature and description, whether or not competitive with the business of the Company, independently or with others; and neither the Company nor the Members will have any right by virtue of this Agreement in or to such independent ventures or to the income or profits derived therefrom. No Member will have any obligation to bring any business opportunity to the Company or to any other Member.
- 9.2 **Governing Law.** Notwithstanding the fact that the Company may conduct business in states other than Minnesota, and notwithstanding the fact that some or all of the Unitholders may be residents of states other than Minnesota, this Agreement and the rights of the parties hereunder will be governed by, interpreted, and enforced in accordance with the laws of the State of Minnesota.
- 9.3 **Articles of Organization.** The Articles of Organization are incorporated by reference and hereby made a part of this Agreement. If there is any conflict between the Articles of Organization and this Agreement, the provisions of this Agreement will govern to the extent not contrary to law.
- 9.4 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the Unitholders, and their respective heirs, executors, administrators, personal representatives, successors and assigns.

- 9.5 **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective during the term of this Agreement, such provision will be fully severable, and this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
- 9.6 **Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. However, in making proof hereof it will be necessary to produce only one copy hereof signed by the party to be charged.
- 9.7 **Additional Documents and Acts.** Each Unitholder agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated hereby.
- 9.8 **No Third Party Beneficiary.** This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other Person will have any rights, interest, or claim hereunder or be entitled to any benefits under or on account of this Agreement, whether as a third party beneficiary or otherwise.
- 9.9 **Notices.** Any notice to be given or to be served by a Unitholder upon the Company in connection with this Agreement must be in writing and will be deemed to have been given when delivered personally or mailed to the Company at its registered office or its principal executive office or to a Member of the Company. Notice to a Unitholder will be deemed to have been given when (i) delivered personally to the Unitholder or (ii) deposited in the United States mail, postage prepaid and addressed to a Unitholder at the address most recently in the Company's records. At any time, by giving five days' prior written notice to the Company, a Unitholder may designate another address in substitution of the foregoing address as the address to which notice is to be given.
- 9.10 **Headings and Titles.** Article and Section headings and titles are for descriptive purposes and convenience of reference only and will not control or alter the meaning of this Agreement as set forth in the text.
- 9.11 **Entire Agreement.** This Agreement is the final integration of the agreement of the parties with respect to the matters covered by it and supersedes any prior understanding or agreement, oral or written, with respect thereto.

- 9.12 **Gender, Etc.** Except where the context requires otherwise, the use of terminology of any of the masculine, feminine, or neuter genders will include all such genders, and the use of the singular number will include the plural and vice versa.
- 9.13 **Expectations of the Members.** The Members agree and represent that this Agreement, as it may be in be amended from time to time in accordance with Article 11, is a complete statement of their expectations concerning their membership or participation in the Company, and they have no other expectations related thereto except as may be contained in a written agreement between the Member and the Company entered into in accordance with the authority of the Company as set forth in this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written, to become the initial Members of the Company.

Beta

Alpha

Schedule A
Tacos Dos Gringos, LLC

<u>Member Name and Address</u>	<u>Capital Contributions</u>	<u>Number of Units</u>
Beta 229 S 19th Ave Minneapolis, MN 55455	\$1	50
Alpha 229 S 19th Ave Minneapolis, MN 55455	\$1	50

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