

OPERATING AGREEMENT
OF
MA-SHARE, LLC

BACKGROUND AND PREAMBLE

The Massachusetts Health Data Consortium, Inc. (the "MHDC") is a non-profit corporation organized and existing under Chapter 180 of the Massachusetts General Laws. MHDC has qualified and operates as an exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (collectively, the "Code"). MHDC envisions that through administrative simplification and secure, appropriate sharing of clinical data:

A consistently safe environment for patients may be created, enabled by readily available, relevant and accurate information wherever patients are treated; and

A healthcare community operating at a world-class level of efficiency and cost-effectiveness may be facilitated.

On March 16, 2004, MHDC established MA-SHARE, LLC a Massachusetts single member limited liability company, (to be known as "MA-SHARE" Simplifying Healthcare Among Regional Entities) to advance this vision.

Through MA-SHARE, MHDC seeks to promote the inter-organizational exchange of healthcare data using information technology, standards and administrative simplification, in order to make accurate clinical health information available wherever needed in an efficient, cost-effective and safe manner. It is further intended that MA-SHARE shall foster improvements in community clinical connectivity, allowing appropriate sharing of inter-organizational healthcare data among the various participants in the healthcare system-- including patients, doctors and other practitioners, hospitals, government, insurers, health maintenance organizations, and other payors.

MA-SHARE is committed to focus on the following major objectives:

Improving Patient Safety: As patients move among numerous providers and settings to get their care, information does not always follow them and they are frequently asked to recount their own clinical profile. Well-meaning healthcare providers make mistakes and order unnecessary tests because they do not have complete, accurate information about patients. Promoting the exchange of healthcare data among regional entities will contribute to improved patient safety.

Promoting Integrated Reporting: Integrating, analyzing and reporting clinical data provided by multiple healthcare community stakeholders -- clinicians, hospitals and clinics, public health organizations, benefit managers and payers -- will enhance patient outcomes, reduce medical errors and provide more effective care.

Increasing Administrative Efficiency: The costs of operating physician's offices, hospitals and clinics have increased substantially over the past twenty years. The availability of integrated administrative and clinical data from disparate institutions and entities at the patient's point of service will result in substantial cost savings and reduce waste and delays.

MHCD believes that involving users of MA-SHARE's services in the management of MA-SHARE will benefit the operation of MA-SHARE as well as assist it in the achievement of the goals and objectives identified herein. MHDC intends to appoint individuals affiliated with entities utilizing the services of MA-SHARE to the Board of Managers, and to have these affiliated Managers make up a majority of the Board.

MA-SHARE shall be utilized to develop, to coordinate, and to operate effective and efficient health data systems that will meet the health data needs of public and private organizations, agencies, and individuals. MA-SHARE may apply for, receive, and administer moneys and other property from the government, philanthropic organizations, and other public and private sources. MA-SHARE will work to improve the quantity, efficiency, or effectiveness of the local, state, and national health care delivery systems. MA-SHARE will adhere to national standards where they exist.

AGREEMENT

WHEREAS, MA-SHARE, LLC (the "LLC") has been formed as a single member limited liability company under the Massachusetts Limited Liability Company Act (the "Act") by the filing on March 16, 2004 of the Certificate of Organization (the "Certificate") in the office of the Secretary of State of the Commonwealth of Massachusetts; and

WHEREAS, the LLC shall have MHDC as its sole member and shall therefore be required to operate as an exempt organization under Section 501(c)(3) of the Code and within the purposes of MHDC; and

WHEREAS, the Managers and the Member wish to set out fully their respective rights, obligations, and duties with respect to the LLC and its business, management, and operations.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, MHDC, MA-SHARE, LLC., and the Initial Managers (as identified on Schedule A hereof) for themselves and on behalf of the LLC, hereby agree as follows:

Article I: Definitions.

The following capitalized terms used in this Agreement shall have the respective meanings ascribed to them below.

“Act” means the Massachusetts Limited Liability Company Act, in effect at the time of the initial filing of the Certificate with the office of the Secretary of State of the Commonwealth of Massachusetts, and as thereafter amended from time to time.

“Affiliate” shall mean, with respect to any specified person or entity, (i) any person or entity that directly or indirectly controls, is controlled by, or is under common control with such specified person or entity; (ii) any person or entity that directly or indirectly controls 10 percent or more of the outstanding equity securities of the specified entity or of which the specified person or entity is directly or indirectly the owner of 10 percent or more of any class of equity securities; (iii) any person or entity that is an officer of, director of, manager of, partner in, or trustee of, or serves in a similar capacity with respect to, the specified person or entity or of which the specified person or entity is an officer, director, partner, manager or trustee, or with respect to which the specified person or entity serves in a similar capacity; (iv) the employee of such specified person; or (v) any person that is a member of the Immediate Family of the specified person.

“Agreement” means this Operating Agreement as it may be amended, supplemented or restated from time to time.

“Board of Managers” or “Board” means the Board of Managers described in Article VI of this Agreement.

“Board of Directors”, “MHDC Board of Directors”, or “Board of Directors of MHDC” means the Board of Directors of Massachusetts Health Data Consortium, Inc.

“Certificate” means the Certificate of Organization creating the LLC, as it may, from time to time, be amended in accordance with the Act.“

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

“Consent” means the written consent or approval of the Board of Directors of MHDC.

“Initial Manager” means any individual identified as such on Schedule A of this Agreement.

“LLC” means the limited liability company formed pursuant to the Certificate and this Agreement, as it may from time to time be constituted and amended.

“Manager” refers to any person named as a Manager in this Agreement and any person who becomes a Manager, an additional, substitute, or replacement Manager as permitted by this Agreement, in each such person’s capacity as (and for the period during which such person serves as) a Manager of the LLC. “Managers” or “Board of Managers” shall refer collectively to all of such persons in their capacities as (and for the period during which such persons serve as) Managers of the LLC.

“Massachusetts Health Data Consortium, Inc.” or “MHDC” means the Massachusetts Health Data Consortium, Inc. a nonprofit corporation organized and existing under Chapter 180 of the

Massachusetts General Laws and qualified as an exempt organization under section 501(c)(3) of the Internal Revenue Code.

“MA-SHARE Advisory Committee” or “Committee” means the committee established by the Board of Managers under Article VIII of this Agreement.

“Member” means the Massachusetts Health Data Consortium, Inc.

“MHDC CEO Manager” means the Chief Executive Officer of MHDC who serves as a Manager of the LLC.

“MHDC Manager” means the member of the Board of Directors of MHDC (other than the MHDC CEO) who serves as a Manager of the LLC.

“Percentage Interest” shall be the one hundred percent interest of the Member.

“Transfer” and any grammatical variation thereof shall refer to any sale, exchange, issuance, redemption, assignment, distribution, encumbrance, hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way (whether voluntarily, involuntarily or by operation of law) as to any interest as a Member. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from Bankruptcy, liquidation, and dissolution.

ARTICLE II: General.

2.01 Name of the Limited Liability Company. The name of the limited liability company formed hereby is MA-SHARE, LLC. The name of the LLC may be changed at any time, or from time to time, with the approval of the Board of Managers and the Consent of the Member.

2.02 Office of the Limited Liability Company; Agent for Service of Process. The address of the registered office of the LLC for purposes of Section 5 of the Act is: 460 Totten Pond Road, Suite 385, Waltham, Massachusetts 02451. The name and address of the resident agent for service of process for the LLC is: David S. Szabo, Esq, Nutter, McClennen & Fish, LLP, 155 Seaport Blvd., Boston, Massachusetts 02210. With the consent of the Member, the Board of Managers may establish places of business of the LLC within and without the Commonwealth of Massachusetts, as and when required by the LLC’s business and in furtherance of its purposes set forth herein, and may appoint agents for service of process in all jurisdictions in which the LLC shall conduct business. With the Consent of the Member, the Board of Managers may cause the LLC to change, from time to time, its resident agent for service of process, or the location of its registered office in Massachusetts.

2.03 Organization. The Board of Managers shall cause to be filed such certificates and documents as may be necessary or appropriate to comply with the Act and any other applicable requirements for the operation of a limited liability company in accordance with the laws of the Commonwealth of Massachusetts and any other jurisdictions in which the LLC shall conduct

business, and shall continue to do so for so long as the LLC conducts business therein.

2.04 Member. MHDC shall be the sole member of the LLC. No additional Members may be admitted to the LLC.

2.05 Designation of Managers. The persons identified on Schedule A hereto as “Initial Managers” are currently serving as the managers of the LLC. Managers shall be elected by the Member in accordance with the provisions of Section 6.02, below. Any Manager may withdraw or be removed as a manager of the LLC and other persons may be added or substituted as Managers, only in the manner specified in Section 6.02, below.

2.06 No Managers as Members. No Manager shall be a member or hold any interest in the LLC as a member.

2.07 Liability of Members. The liability of the Member for the losses, debts, liabilities, and obligations of the LLC shall be limited to the Member’s capital contributions; provided, however, that under applicable law, the Member may, under certain circumstances, be liable to the LLC to the extent of previous distributions made to it in the event that the LLC does not have sufficient assets to discharge its liabilities.

2.08 Notices of Default. No Member or Manager shall be obligated to make any capital contributions or loans to the LLC, or otherwise supply or make available any funds to the LLC, even if the failure to do so would result in a default of any of the LLC’s obligations or the loss or termination of all or any part of the LLC’s assets or business.

ARTICLE III: Powers, Purposes, and Restrictions.

3.01 Character of the LLC’s Business. The general character of the business of the LLC, as set forth in the Certificate, is to promote the public health by carrying out demonstration projects to facilitate the electronic exchange of clinical and administrative information among healthcare organizations, and to carry on any lawful business, trade, purpose, or activity that could be carried on by the Member.

3.02 Purposes. The LLC was formed as a subsidiary of MHDC to advance the purposes of MHDC as follows:

- (a) to develop, to coordinate, and to operate effective and efficient health data systems that will meet the health data needs of public and private organizations, agencies, and individuals;
- (b) to apply for, to receive, and to administer moneys and other property from the government, philanthropic organizations, and other public and private sources; and
- (c) to engage in any and all lawful activities or services incidental to the foregoing purposes or in any way connected therewith which may improve the quantity, efficiency, or effectiveness of the local, state, and national health care delivery systems.

3.03 Powers. Acting within the foregoing purposes and subject to all other provisions of this Agreement, the LLC is hereby authorized to do as follows:

(a) to enter into, execute, modify, amend, supplement, acknowledge, deliver, perform and carry out contracts of any kind, including operating agreements of limited liability companies (whether as a member or manager), joint venture agreements, limited partnership and general partnership agreements, contracts with Affiliates, and including other contracts establishing business arrangements or organizations, necessary to, in connection with, or incidental to the accomplishment of the purposes of the LLC;

(b) to borrow money and issue evidences of indebtedness or guarantees in furtherance of any or all of the purposes of the LLC, and to secure the same by mortgages, pledges or other liens on the property of the LLC;

(c) to the extent that funds of the LLC are available therefor, to pay all expenses, debts and obligations of the LLC;

(d) to enter into or engage in any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the LLC, so long as said activities may be lawfully carried on or performed by a limited liability company under the laws of the Commonwealth of Massachusetts; and

(e) to take any other action not prohibited under the Act, other applicable law, or Section 501 (c) (3) of the Internal Revenue Code.

3.04 Limitation on Activities and; Use of Funds. If the terms of this section conflict with any terms or provisions of this Agreement or the Certificate, the terms of this section shall control. The LLC shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity, that would invalidate MHDC's status as both a Chapter 180 Corporation and an exempt organization described in Section 501 (c) (3) of the Code. The LLC shall be operated exclusively for charitable, scientific, and educational purposes. No part of the LLC's net earnings may inure to the benefit of or be distributable to its Managers, Officers, or private persons, except, however, that the LLC shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes as set forth in this Agreement. No substantial part of the activities of the LLC may consist of carrying on propaganda, or otherwise attempting to influence legislation. The LLC may not participate in, or interfere in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office. The LLC may not engage in any activity that is unlawful under applicable federal, state, and local law.

MHDC on its own or through the LLC may receive funds or property from time to time that will be subject to certain terms and conditions that relate to the use and administration of such funds or property (the "Grant Funds"). The donors of Grant Funds may require these funds to be administered and expended in accordance with terms and conditions the donor may establish (the "Donor's Terms"). The administration, use and expenditure of any Grant Funds

shall be in accordance with the donor's terms, if any. The LLC shall abide by any policies or directives established by MHDC in order to comply with the Donor's Terms.

ARTICLE IV: Distributions.

4.01 Distribution of LLC Funds. All LLC funds, which the Board of Managers determines to be available for distribution, shall be distributed to the Member. Except as set forth in an approved budget or otherwise provided in this Agreement, the Member shall have no right to require the distribution of LLC funds.

4.02 Distribution Upon Dissolution or Liquidation. Amounts available upon dissolution or liquidation of the LLC shall be distributed in accordance with Sections 9.03 and 9.04.

4.03 Distribution of Assets in Kind. The Member shall not have the right to require any distribution of any assets of the LLC in kind. Assets may be distributed in kind only upon the approval of the Board of Managers.

4.04 Distributions to Cover Member's Tax Liability. The Board of Managers shall, at a minimum, distribute to the Member, amounts intended to cover the potential federal, state, or local tax obligations of such Member on account of the cumulative allocation to it of taxable income in excess of tax losses pursuant to this Agreement. For purposes of the foregoing, such federal, state, and local tax obligations of the Member shall be assumed to equal the highest effective combined federal and state income tax rate applicable to the Member

4.05 Allocation of Net Income or Net Loss. The net Income or net Loss, other items of income, gains, losses, deductions and credits, and the taxable income, gains, losses, deductions and credits of the LLC, if any, for each Fiscal Year (or portion thereof) shall be allocated entirely to the Member.

ARTICLE V: Conflicts of Interest Policy.

Conflict of Interest. No contract or transaction between the LLC and one or more of its Managers or Officers, or between the LLC and any other organization of which one or more of its Managers or Officers are directors, managers, trustees or officers, or in which any of them has any financial or other interest, shall be void or voidable, or in any way affected, solely for this reason, or solely because the Manager or Officer is present at or participates in the meeting of the Board of Managers or committee thereof which authorizes, approves or ratifies the contract or transaction, or solely because his or their votes are counted for such purpose, if:

- (a) The material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Managers or the committee which authorizes, approves or ratifies the contract or transaction, and the Board of Managers or committee in good faith authorizes, approves or ratifies the contract or transaction by an affirmative majority vote of the disinterested Managers even though the disinterested Managers be less

than a quorum; or

- (b) The material facts as to his relationship or interest and as to the contract or transaction are disclosed or are known to the Member, and the contract or transaction is specifically authorized, approved or ratified in good faith by vote of the Member or
- (c) The contract or transaction is fair as to the LLC as of the time it is authorized, approved or ratified by the Board of Managers, a committee thereof, or the Member.

Interested Managers may be counted in determining the presence of a quorum at a meeting of the Board of Managers or of a committee thereof which authorizes, approves or ratifies the contract or transaction. No Manager or Officer of the LLC shall be liable or accountable to the LLC or to the Member or creditors or to any person either for any loss to the LLC or to any other person or for any gains or profits realized by such Manager or Officer, by reason of any contract or transaction as to which clauses (a), (b), or (c) above are applicable.

Notwithstanding the provisions of this section, no Manager or Officer of the LLC who is also a state employee shall have any personal financial interest in any contract or transaction of the LLC.

The Board of Managers may adopt or the Member may require adherence to a more stringent Conflict of Interest policy than is provided above. Each Manager in executing this Agreement agrees to this provision and to be bound by and comply with any Conflict of Interest Policy established for the LLC by either the Board of Managers or the Member.

ARTICLE VI: Management.

6.01 Management of the LLC. The business and affairs of the LLC shall be managed by or under the direction of a Board of Managers, who may exercise all of the powers of the LLC except as otherwise provided by law or this Agreement. In the event of a vacancy in the Board of Managers, the remaining Managers (except as otherwise provided by law) may exercise the powers of the full Board until the vacancy is filled.

All management and other responsibilities not specifically reserved to the Member in this Agreement shall be vested in the Board of Managers, and the Member shall have no voting rights except as specifically provided in this Agreement.

Each Manager shall devote such time to the affairs of the LLC as may be reasonably necessary for performance by the Manager of his, her or its duties hereunder, provided that such persons shall not be required to devote full time to such affairs.

Specifically, but not by way of limitation, and subject to the provisions of Section 6.07, the Board of Managers shall be authorized in the name and on behalf of the LLC, to cause the LLC to do all things necessary or appropriate to carry on the business and purposes of the LLC, including, without limitation, the following:

(i) to acquire by purchase, lease, exchange or otherwise; and to sell, finance, refinance, encumber and otherwise deal with, any real or personal property;

(ii) to borrow money and issue evidences of indebtedness; or to guarantee loans and to secure the same by mortgage, deed of trust, pledge or other lien on any assets or property of the LLC; and to pay, prepay, extend, amend or otherwise modify the terms of any such borrowings;

(iii) to employ executive, administrative and support personnel in connection with the business of the LLC; and to pay salaries, expense reimbursement, employee benefits, fringe benefits, bonuses and any other form of compensation or employee benefit to such persons and entities, at such times and in such amounts as may be determined by the Board of Managers in its sole discretion, to provide executive, administrative and support services in connection with the business of the LLC;

(iv) to hire or employ such agents, employees, managers, accountants, attorneys, consultants and other persons necessary or appropriate to carry out the business and operations of the LLC, and to pay reasonable fees, expenses, salaries, wages and other compensation (including bonuses) to such persons;

(v) to pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise, on such terms as it may determine and on such evidence as it may deem sufficient, any obligation, suit, liability, cause of action or claim, including taxes, either in favor of or against the LLC;

(vi) to establish and maintain reserves for such purposes and in such amounts as it deems appropriate from time to time;

(vii) to pay all organizational expenses, and general and administrative expenses of the LLC;

(viii) to deal with, or otherwise engage in business with, or provide services to and receive compensation therefore from, any person who has provided or may in the future provide any services to, lend money to, sell property to, or purchase property from the LLC, including, without limitation, the Member, a Manager, or its Affiliate;

(ix) to engage in any kind of activity, and to perform and carry out contracts of any kind necessary to, in connection with or incidental to the accomplishment of the purposes of the LLC;

(x) to pay any and all fees and to make any and all expenditures that the Board of Managers, in its sole discretion, deems necessary or appropriate in connection with the organization of the LLC, the management of the affairs of the LLC, and the carrying out of its obligations and responsibilities under this Agreement, including, without limitation, fees, reimbursements and expenditures payable to the Member, a Manager, or its

Affiliate;

(xi) to exercise all powers and authority granted by the Act to managers, except as otherwise provided in this Agreement;

(xii) to cause the LLC and its properties and assets to be maintained and operated in such a manner as the Board of Managers may determine, subject, however, to obligations imposed by applicable laws or by any mortgage or security interest encumbering the LLC and such properties and assets from time to time, and by any lease, rental agreement or other agreement pertaining thereto;

(xiii) to cause to be obtained and continued in force all policies of insurance required by any mortgage, lease or other agreement relating to the LLC's business or any part thereof, or determined by the Board of Managers to be in the best interests of the LLC;

(xiv) to cause to be paid any and all taxes, charges and assessments that may be levied, assessed or imposed on any of the assets of the LLC unless the same are contested by the LLC; and

(xv) to perform any other act that the Board of Managers may deem necessary, convenient, or desirable for the LLC or its business.

6.02 Managers.

(a) Number, Election, and Qualification. The number of Managers who shall constitute the whole Board of Managers shall be determined by resolution of the Member, but in no event shall such number be less than five (5) nor more than fifteen (15). Subject to the preceding sentence, the number of Managers may be decreased at any time, and from time to time by the Member, but only to eliminate vacancies existing by reason of the death, resignation, removal, or expiration of the term of one or more Managers. The Managers serving shall include the MHDC CEO, and at least one other MHDC Board of Directors Member who is not an Affiliate of an entity or organization that contracts with or receives services from the LLC. The Managers shall be elected by the Member at an annual meeting of the Member. Except for the Manager serving as the MHDC CEO, no individual shall serve more than two three (3) year terms as a Manager.

The number of members of the Board of Managers is hereby initially fixed at twelve (12), and the persons identified as "Managers" on Schedule A, hereto, are currently serving as the Managers (the "Initial Managers"). The expiration of each Initial Manager's term of office shall be designated adjacent to their name on Schedule A.

Each person elected to serve as a Manager of the LLC shall sign this Agreement, or a counterpart hereof or amendment hereto, or other writing pursuant to which such person (i) acknowledges receipt of a copy of this Agreement, as amended and in effect as of the date of such writing; (ii) agrees that he or she is a party to and is bound by this Agreement, including the power of attorney set forth below; (iii) agrees to perform the duties of a Manager hereunder; and (iv) agrees to execute and deliver such additional agreements, instruments, certificates and

documents, including, without limitation, an amendment to the Certificate, which may be necessary, appropriate or convenient to reflect the foregoing matters and the election of such person as a Manager of the LLC.

Upon the death, resignation, removal or expiration of the term of any Manager (a “Terminated Manager”), (i) such Terminated Manager shall have no further authority under this Agreement; (ii) such Terminated Manager shall have no further obligations or rights under this Agreement (except for liabilities and rights accruing prior to the date of death, resignation, removal or expiration of his or her term, such as, for example, rights to indemnification under Section 6.10 that relate to actions or omissions occurring during such person’s service as a Manager), and (iii) no writing or instrument shall be required to be executed by the LLC or the Terminated Manager to reflect such cessation of service, except that the Terminated Manager (or his or her legal representative or attorney in fact, as provided in the following paragraph) shall execute and deliver any agreement, instrument, certificate or document, including an amendment to the Certificate that may be reasonably required to reflect that the Terminated Manager is no longer a Manager of the LLC.

Each person now or hereafter serving as a Manager of the LLC, by execution of this Agreement, an amendment hereto or an instrument acknowledging that such person is bound hereby, hereby constitutes and appoints each other person who may, from time to time, be serving as a Manager, and each of them acting singly, such Manager’s agent and attorney in fact for the purpose of executing and delivering any and all agreements, instruments and other documents (including, without limitation, an amendment to the Certificate) as are necessary or appropriate to reflect that he, she or it is no longer a Manager of the LLC following the death, resignation, removal or expiration of the term of such Manager, which power of attorney is hereby agreed and acknowledged to be irrevocable, and shall survive the resignation, removal, expiration of the term, death, dissolution, bankruptcy or incapacity of any Manager until such time as the withdrawal of such Manager from the LLC has been reflected by all necessary or appropriate agreements, instruments and other documents.

(b) Enlargement of the Board. Subject to Section 6.02(a), above, the number of Managers may be increased at any time, and from time to time, by the Member.

(c) Tenure. It is intended that the tenure of the Managers be staggered. To that end, each of the Initial Managers shall serve until the expiration of their term as indicated adjacent their name on Schedule A. At the annual meeting of Members, the Member shall elect a Manager to fill the position of any Initial Manager whose term is scheduled to expire that year. Except for the Initial Managers, Managers shall be elected for three (3) year terms. Each Manager shall hold office for the specified term and until his successor is elected and qualified or until he sooner dies, resigns, is removed, or becomes disqualified.

(d) Vacancies. Unless and until filled by the Members, any vacancy in the Board of Managers, however occurring, including a vacancy resulting from an enlargement of the Board, may be filled by vote of a majority of the Managers then in office, although less than a quorum, or by a sole remaining Manager. A Manager elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office, and a Manager, chosen to fill a position resulting from an

increase in the number of Managers, shall hold office until the next annual meeting of Members and until his or her successor is duly elected and qualified, or until his or her earlier death, resignation or removal.

(e) Resignation. Any Manager may resign by delivering his or her written resignation to the LLC at its principal office or to the Chief Executive Officer. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some other event.

(f) Regular Meetings. Regular meetings of the Board of Managers may be held without notice at such time and place, either within or without the Commonwealth of Massachusetts, as shall be determined from time to time by the Board of Managers; provided that any Manager who is absent when such a determination is made shall be given notice of the determination. A regular meeting of the Board of Managers may be held without notice, immediately after and at the same place as the annual meeting of Member.

(g) Special Meetings. Special meetings of the Board of Managers may be held at any time and place, within or without the Commonwealth of Massachusetts, designated in a call by the Chief Executive Officer, two or more Managers, or by one Manager in the event that there is only a single Manager in office.

(h) Notice of Special Meetings. Notice of any special meeting of the Board of Managers shall be given to each Manager by the Chief Executive Officer or by the officer or one of the Managers calling the meeting. Notice shall be duly given to each Manager (i) by giving notice to such Manager in person or by telephone at least twenty-four (24) hours in advance of the meeting; (ii) by sending an e-mail message to an address specified by the Manager a telegram or telex, or delivering written notice by hand, to the Manager's last known business or home address at least twenty-four (24) hours in advance of the meeting; or (iii) by mailing written notice to the Manager's last known business or home address at least Seventy-two (72) hours in advance of the meeting. A notice or waiver of notice of a meeting of the Board of Managers need not specify the purpose of the meeting.

(i) Meetings by Telephone Conference Calls. Managers, or any members of any committee designated by the Managers, may participate in a meeting of the Board of Managers or such committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

(j) Quorum. A majority of the total number of the whole Board of Managers shall constitute a quorum at all meetings of the Board of Managers. In the event that one or more of the Managers shall be disqualified to vote at any meeting, then the required quorum shall be reduced by one for each such Manager so disqualified; provided, however, that in no case shall less than one-third of the number so fixed constitute a quorum. In the absence of a quorum at any such meeting, a majority of the Managers present may adjourn the meeting from time to time without further notice, other than announcement at the meeting, until a quorum shall be present.

(k) Action at Meeting. At any meeting of the Board of Managers at which a quorum is present, the vote of a majority of those present shall be sufficient to take any action unless a different vote is specified by law, the Certificate or this Agreement.

(l) Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Managers, or of any committee of the Board of Managers, may be taken without a meeting, if all members of the Board of Managers or committee, as the case may be, consent to the action in writing, and the written consents are filed with the minutes of proceedings of the Board of Managers or committee.

(m) Removal. Except as otherwise provided by the Act, any one or more or all of the Managers may be removed, with or without cause, by the Member.

(n) Committees. The Board of Managers may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the Managers of the LLC. The Board of Managers may designate one or more Managers as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members of the committee present at any meeting, and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Managers to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Managers and subject to the provisions of the Act, shall have and may exercise all the powers and authority of the Board of Managers in the management of the business and affairs of the LLC. Each such committee shall keep minutes and make such reports as the Board of Managers may from time to time request. Except as the Board of Managers may otherwise determine, any committee may make rules for the conduct of the committee's business, but unless otherwise provided by the Managers or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in this Agreement for the Board of Managers.

(o) Compensation of Managers. Managers shall not receive any compensation for their services nor reimbursement for their expenses incurred in the performance of their duties as Managers or in the attendance of meetings, but may receive reasonable reimbursement for expenses incurred in the performance of services on behalf of the LLC, provided, however, that any Manager who is also a state employee may not receive such reimbursement.

(p) Fiduciary Duty. The Managers shall be subject to the same fiduciary duties as directors of a corporation formed pursuant to Chapter 180 of the Massachusetts General laws.

6.03 Member.

(a) Place of Meetings. All meetings of the Member shall be held at such place within or without the Commonwealth of Massachusetts as may be designated from time to time by the Board of Managers or the Chief Executive Officer or, if not so designated, at the registered office of the LLC. Notwithstanding the foregoing, the Board of Directors of the Member may designate any

special meeting of such Directors as a membership meeting of the LLC, provided that the Managers have received advance notice of such meeting in the same manner as Directors of MHDC.

(b) Annual Meeting. There shall be held an annual meeting of the Member for the election of Managers and for the transaction of such other business as may properly be brought before the meeting. Such annual meeting shall be held on a date to be fixed by the Board of Managers or the Chief Executive Officer (which date shall not be a legal holiday in the place where the meeting is to be held) at the time and place to be fixed by the Board of Managers or the Chief Executive Officer, and stated in the notice of the meeting. If no annual meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu of the annual meeting, and any action taken at that special meeting shall have the same effect as if it had been taken at the annual meeting, and, in such case, all references in this Agreement to the annual meeting of the Members shall be deemed to refer to such special meeting.

(c) Special Meetings. Special meetings of Member may be called at any time by the Chief Executive Officer, by the Board of Managers, or by the Chairman of the Board of MHDC. Business transacted at any special meeting of Member shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

(d) Notice of Meetings. Except as otherwise provided by law, written notice of each meeting, whether annual or special, of the Member shall be given not less than 20 nor more than 60 days before the date of the meeting to the Member. The notices of all meetings shall state the place, date and hour of the meeting. The notice of a special meeting shall state, in addition, the purpose or purposes for which the meeting is called. If mailed, notice is deemed given when deposited in the U.S. mail, postage prepaid, directed to the Member at its address as it appears in the records of the LLC.

(e) Action Without Meeting. Any action required or permitted to be taken at any annual or special meeting of the Member of the LLC may be taken without a meeting, without prior notice and without a vote, if consent in writing, setting forth the action so taken, is signed by a duly authorized officer of the Member.

6.04 Officers.

(a) Enumeration. The officers of the LLC shall consist of a Chairman of the Board, Chief Executive Officer, and such other officers with such other titles as the Board of Managers shall determine. The Board of Managers may appoint such other officers as it may deem appropriate.

(b) Election. Officers shall be elected annually by the Board of Managers at its first meeting following the annual meeting of the Member. Other officers may be appointed by the Board of Managers at such meeting or at any other meeting.

(c) Qualification. Except for the Chairman of the Board of Managers who shall be a Manager, no officer need be a Member or a Manager. All officers, except the Chairman of the Board of Managers, shall be approved by the MHDC Board of Directors. Any two or more offices may be

held by the same person.

(d) Tenure. Except as otherwise provided, by law, by the Certificate or by this Agreement, each officer shall hold office until his or her successor is elected and qualified, unless a different term is specified in the vote choosing, electing, or appointing him or her, or until his or her earlier death, resignation, or removal. Notwithstanding any term of service for an officer, all officers shall serve at the pleasure of the Board of Managers.

(e) Resignation and Removal. Any officer may resign by delivering his or her written resignation to the LLC at the LLC's principal office or to any Manager. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Any officer may be removed at any time, with or without cause, by vote of a majority of the entire number of Managers then in office (which entire number shall be determined exclusive of any officer who is the subject of the proposed removal). The Member shall have the right to remove any officer for good cause shown.

Except as the Board of Managers may otherwise determine, no officer who resigns or is removed shall have any right to any compensation as an officer for any period following his or her resignation or removal, or any right to damages on account of such removal, whether his or her compensation be by the month or by the year or otherwise, unless such compensation is expressly provided in a duly authorized written agreement with the LLC.

(f) Vacancies. The Board of Managers may subject to the approval of the Member, fill any vacancy occurring in any office for any reason and may, in its discretion, leave unfilled for such period as it may determine any office. Each such successor shall hold office for the unexpired term of his or her predecessor and until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal. Notwithstanding, the Board of Managers shall in its sole discretion fill any vacancy in the office of the Chairman of the Board of Managers with an existing Manager.

(g) Chairman of the Board. The Board of Managers shall appoint a Chairman of the Board. If the Board of Managers appoints a Chairman of the Board, he or she shall perform such duties and possess such powers as are assigned to him or her by the Board of Managers. The Board of Managers may designate the Chairman of the Board to serve as interim Chief Executive Officer for any period in which the Board has not otherwise selected and employed a Chief Executive Officer as provided below.

(h) Chief Executive Officer. The Chief Executive Officer shall be selected and employed by the Board of Managers. The Board of Managers selection of the Chief Executive Officer shall be subject to the approval of the MHDC Board of Directors. The Board of Managers shall determine the terms of his/her employment and shall prepare an appropriate written job description. The Chief Executive Officer shall carry out the purposes of the LLC within the framework of the legal requirements of state and federal statutes and regulations, this Operating Agreement, and the general and specific assignments given to him or her by the Board of Managers. The Chief Executive

Officer shall, subject to the direction of the Board of Managers, have general charge and supervision of the business of the LLC, and (except for any interim Chief Executive Officer as provided for above) shall be a full-time or part-time employee of the LLC rather than an independent contractor. Unless otherwise provided by the Board of Managers, he or she shall preside at all meetings of the Board of Managers and shall attend all meetings of the Member. The Chief Executive Officer shall perform such other duties and shall have such other powers as the Board of Managers may, from time to time, prescribe.

(i) Salaries. Officers of the LLC may receive to such reasonable salaries, compensation (including reasonable bonuses), or reimbursement as shall be fixed or allowed, from time to time, by the Board of Managers, subject to section 3.04 hereof.

(j) Fiduciary Duty. The Officers shall be subject to the same fiduciary duties as officers of a corporation formed pursuant to Chapter 180 of the Massachusetts General laws.

6.05 Interpretation of Rights and Duties of Managers and Members. To the fullest extent permitted by the Act and other applicable law, and to the extent not inconsistent with the specific provisions of this Agreement or the Certificate, it is the intention of the parties as follows:

(i) the Board of Managers shall have the power to do any and all acts, statutory and otherwise, with respect to the LLC that the board of directors of a Massachusetts chapter 180 charitable corporation would have with respect to such Massachusetts corporation; and

(ii) except as specifically set forth in this Agreement, the Member shall have no power or authority whatsoever with respect to the management of the business and affairs of the LLC.

6.06 Certain Permitted Transactions. Without limitation of any of its powers set forth in Section 6.01, above, the Board of Managers is expressly authorized, for, in the name of, and on behalf of, the LLC: to cause the LLC to enter into a Management Agreement with MHDC pursuant to which MHDC will provide certain property management services to the LLC, and will receive expense reimbursement and a monthly fees.

6.07 Member Approval Requirements. Notwithstanding the provisions of Section 6.01 or any other provision of this Agreement to the contrary, without the prior written Consent of the Member, the Board of Managers shall not cause the LLC to (and the LLC shall not) take any of the following actions:

(i) authorize the admission of additional Members;

(ii) take any action with respect to the institution of any voluntary Bankruptcy proceeding with respect to the LLC as debtor;

- (iii) authorize the approval of all budgets as set forth in Section 7.05 and any expenditures which exceed budgeted amounts by more than ten percent (10%) in the aggregate for a Fiscal Year;
- (iv) settle any claims in excess of \$20,000 which any person or entity may have against the LLC or which the LLC may have against any person or entity;
- (v) sell, finance, or refinance any substantial part of the assets of the LLC;
- (vi) authorize any merger, consolidation, reorganization or other combination of the LLC with any other person or entity, or any acquisition by the LLC of another real property or business enterprise;
- (vii) incur any secured debt (other than ordinary course equipment leases) or unsecured debt (other than ordinary course trade indebtedness) in excess of twenty Thousand Dollars (\$20,000.00), unless such indebtedness is included in the budget approved by the Member;
- (viii) take any such other action requiring, by law or applicable agreement, Member consent;
- (ix) cause the LLC to enter into any agreement or arrangement with any of the Managers or any of their respective Affiliates (except for the arrangements described in Sections 6.02(o) and 6.06, above), pursuant to which any Manager or any of such Affiliates is to receive compensation of any kind;
- (x) determine the appropriate accounting method or methods to be used by the LLC and the selection of the external auditor of the LLC;
- (xi) cause the LLC to make or revoke any of the elections referred to in the Code; and
- (xii) cause the liquidation or dissolution of the LLC.

6.08 Binding the LLC. Except as the Board of Managers may generally or in any particular case or cases otherwise authorize, and subject to the other provisions of this Agreement and the Certificate, all contracts, bonds, notes, checks, drafts or other obligations made, accepted or endorsed by the LLC shall be signed by the Chief Executive Officer. Subject to the other provisions of this Agreement and the Certificate, all documents to be filed with the Secretary of the Commonwealth and any instrument or document to affect an interest in real property including a deed or lease, accepted or endorsed by the LLC shall be signed by the Member through its Executive Director.

6.09 Contracts with Member or Affiliate. The LLC may engage in business with, or enter into one or more agreements, leases, contracts or other arrangements for the furnishing to or by the LLC of goods, services or space with the Member or an Affiliate of the Member, and may pay or

receive compensation in connection with such business, goods, services, or space. It is anticipated that the LLC will enter into a management services agreement with MHDC for assistance with the management and administration of the LLC's daily operations.

6.10 Indemnification and Exculpation.

(a) No Manager shall have any liability to the LLC or to the Member for any loss suffered by the LLC that arises out of any action or inaction of any Manager if such Manager, as the case may be, in good faith, determined that such course of conduct was in the best interests of the LLC and such course of conduct did not constitute gross negligence or willful misconduct of such Manager.

(b) Each Manager shall be indemnified by the LLC against any losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by it with respect to actions taken by such Manager on behalf of the LLC, provided that no indemnification shall be provided for any person with respect to any matter as to which he or she shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interest of the LLC. Without limiting the foregoing, the Board of Managers may elect (on a case-by-case basis) to permit such indemnification to include payment by the LLC of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of an undertaking by the person indemnified to repay such payment if he or she shall be adjudicated not to be entitled to indemnification under this Section 6.10, which undertaking may be accepted without reference to the financial ability of such person to make repayment. Any indemnification to be provided hereunder may be provided even if the person to be indemnified is no longer a Manager.

(c) Notwithstanding the foregoing, no Manager, nor any person acting as a broker-dealer, shall be indemnified for any losses, liabilities or expenses arising from or out of intentional or criminal wrongdoing. Any indemnity under this Section 6.10 shall be paid from, and only to the extent of, LLC assets, and the Member shall not have any personal liability on account thereof. The LLC shall not incur the cost of that portion of any insurance, other than public liability insurance, which insures any party against any liability as to which such party is herein prohibited from being indemnified.

6.11 Other Activities. Except as provided in this Agreement or by law, the Member, Managers, and any Affiliates of any of them, may engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, including serving as directors, officers, stockholders, managers, members and general or limited partners of corporations, partnerships or other limited liability companies with purposes similar to those of the LLC. Neither the LLC nor any other Member or Manager shall have any rights in or to such ventures or opportunities or the income or profits therefrom.

ARTICLE VII: Fiscal Matters.

7.01 Books and Records. The Board of Managers shall keep or cause the Chief Executive

Officer to keep complete and accurate books and records of the LLC in accordance with generally accepted accounting principles consistently applied, which shall be maintained and be available, in addition to any documents and information required to be furnished to the Member under the Act, at the office of the LLC for examination and copying by any Member or Manager, or his, her or its duly authorized representative, at its reasonable request and at its expense during ordinary business hours. A current list of the full name and last known address of each officer, Member and Manager; a copy of this Agreement and any amendments thereto; the Certificate, including all certificates of amendment thereto; executed copies of all powers of attorney, if any, pursuant to which this Agreement, any amendment, the Certificate or any certificate of amendment has been executed; and copies of the LLC's financial statements and federal, state, and local income tax returns and reports, if any, for the three most recent fiscal years, shall be maintained at the registered office of the LLC as required by Section 5 of the Act. The Member's treasurer or his designee shall have access to the books or records of the LLC on reasonable notice to the Chief Executive Officer.

7.02 Reports. Within 60 days after the end of each fiscal year, the Board of Managers shall cause to be prepared and sent to the Member a financial report of the LLC, including a balance sheet and a profit and loss statement, and, if such profit and loss statement is not prepared on a cash basis, a statement of changes in financial position. Within 30 days after the end of each fiscal year, the Board of Managers shall furnish (or cause to be furnished) to the Member with such information as may be needed to enable the Member to file its Form PC, federal tax returns and any required state tax return. The cost of all such reporting shall be paid by the LLC as an LLC expense. The Member may, at any time, at its own expense, cause an audit of the LLC books to be made by a certified public accountant of its own selection. All expenses incurred by such accountant shall be borne by the Member.

7.03 Bank Accounts. The Board of Managers or the Chief Executive Officer shall be responsible for causing one or more accounts to be maintained in a bank (or banks) that is a member of the FDIC, which accounts shall be used for the payment of the expenditures incurred by the Board of Managers and the officers in connection with the business of the LLC, and in which shall be deposited any and all cash receipts of the LLC. All deposits and funds not needed for the operations of the LLC may be invested in short-term investments, including securities issued or fully guaranteed by United States government agencies; certificates of deposit of banks; bank repurchase agreements covering the securities of the United States government; commercial paper rated A or better by Moody's Investors Services, Inc.; money market funds; interest-bearing time deposits in banks and thrift institutions; and such other similar investments as the Board of Managers may approve. All such amounts shall be and remain the property of the LLC, and shall be received, held and disbursed by the Board of Managers (or the Chief Executive Officer or such other officers of the LLC, as authorized by the Board of Managers) for the purposes specified in this Agreement. There shall not be deposited in any of said accounts any funds other than funds belonging to the LLC, and no other funds shall in any way be commingled with such funds. Withdrawals from any LLC bank or similar account shall be made and other activity conducted on such signature or signatures as shall be approved by the Board of Managers, its Chairman or other individual specifically designated by the Board of Managers.

7.04 Fiscal Year. The fiscal year of the LLC shall end on December 31 of each year.

7.05 Member Approval of Annual Budget. On or before _____, 2005 the Board of Managers shall deliver to the Member an initial budget for the remainder of the Initial Fiscal Year. For each Fiscal Year thereafter, at least sixty (60) days before the beginning of such Fiscal Year, the Board of Managers shall deliver to the Member an annual budget for such Fiscal Year. The initial budget shall detail the expenditures reasonably expected to be incurred by the LLC. The Member shall have forty-five (45) days from the date of delivery of any budget to approve or object in writing to all or any portion of such budget. If the Member does not object, in writing, within such forty-five (45) day period, such budget shall be deemed approved by the Member. If the Member approves such budget or if such budget is deemed approved, the Chief Executive Officer shall be fully authorized, empowered and entitled to make the expenditures set forth in such budget. The Chief Executive Officer may not make expenditures which exceed budgeted amounts by more than ten (10%) percent in the aggregate for any Fiscal Year without the prior written consent of the Member. If the Member objects to any budget, the Member shall amend the budget accordingly and such amended budget shall be the budget for the ensuing Fiscal Year. If the Member objects to the budget but fails to amend the budget prior to the commencement of the Fiscal Year to which the budget applies, the budget for the Fiscal Year prior to the Fiscal Year for which the objected to budget applies shall remain in effect until a new budget is approved by the Member as herein provided.

ARTICLE VIII: MA-SHARE Advisory Committee.

8.01 MA-SHARE Advisory Committee. The Committee shall be created by the Board of Managers. The Committee shall advise the LLC in such manner as may from time to time be requested by the Chief Executive Officer or the Board of Managers. It is intended that the Committee review and evaluate projects and opportunities that may be made available to the LLC; and support, catalyze, encourage, reduce conflict, and promote interaction among the projects, programs, and other initiatives of the LLC, MHDC and MHDC's members and their Affiliates.

8.02 Limitation on Activities and Authority of the Committee. The Committee shall neither have nor exercise any direct power. Without limitation, the Committee and Committee Members are not authorized to transact business, incur obligations, sell goods, receive payments, solicit orders or assign or create any obligation of any kind, express or implied, on behalf of or binding the LLC or affiliated entities, or otherwise to bind the LLC or its related or affiliated entities in any way whatsoever, or to make any promise, warranty, or representation with respect to any matter. Without limitation, no report, recommendation or other action of the Committee shall be considered as the action of the LLC unless and until the same has been approved or authorized by the Board of Managers. No Committee Member, including the Committee Chairman, shall have the authority to bind the LLC without the express authorization of the Board of Managers.

Further, the Committee shall neither have nor exercise any power, nor shall it engage directly or indirectly in any activity, that would invalidate the status of MHDC as both a non-profit corporation under M.G.L. Chapter 180 and a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

8.03 Number of Committee Members. The Committee shall have a maximum of twenty-five (25) Committee Members, but not less than five (5), as determined annually by the Board of Managers. Two Committee Members shall be directors of MHDC, one of which shall be the Chairman of the Board of Directors and the other shall be appointed by the Chairman of the Board of Directors. The remaining Committee Members need not be directors of MHDC, and shall be nominated by the Chief Executive Officer and elected by the Board of Managers.

8.04 Election of Committee Members and Tenure. Subject to the forgoing provisions the Board of Managers shall elect the Committee Members. The term of each Committee Member (“Committee Member”) shall be for one (1) year or until such Committee Member’s successor is designated, whichever occurs later. Committee Members may serve more than one term, subject to the approval of the Board of Managers.

8.05 Removal and Resignation.

(a) Removal. Committee Members serve at the pleasure of the Board of Managers, and may be removed by the Board of Managers at any time with or without cause.

(b) Resignation. Any Committee Member may resign at any time. Such resignation shall be made in writing to the Chairman of the Board of Managers, the Chief Executive Officer, or the Committee Chairman. Resignations shall take effect as of the date of acceptance by the Board of Managers.

8.06 Compensation and Reimbursement of Committee Members. Committee Members shall not receive any compensation for services nor reimbursement for expenses incurred in the performance of their duties or for their attendance of meetings or other activities as Committee Members. However, Committee Members may, subject to the Rules of the Committee concerning Conflicts of Interest and with the authorization of the Chief Executive Officer, receive reasonable reimbursement for expenses incurred in the performance of services on behalf of the LLC. Any Committee Member who is a state employee or otherwise ineligible to receive such funds may not receive such reimbursement.

8.07 Conflicts of Interest. No contract or transaction between MHDC or the LLC and one or more of the Committee Members, or between MHDC or the LLC and any other organization of which one or more of the Committee Members are directors, trustees, officers or employees, or in which any of them has any financial or other interest, shall be void or voidable or in any way affected solely for this reason, or solely because the Committee Member is present at or participates in a meeting of the Committee which considers or recommends the contract or transaction, or solely because the Committee Member’s vote is counted for such purpose, if:

(a) Informed Approval by Disinterested Committee Members. The material facts as to the Committee Member’s relationship or interest and as to the contract or transaction are disclosed or are known to the Committee and the Committee in good faith authorizes, approves, or ratifies the contract or transaction by an affirmative majority vote of the

disinterested Committee Members even though the disinterested Committee Members be less than a quorum; or

(b) Informed Approval by the MHDC's Board or by the Board of Managers. The material facts as to the Committee Member's relationship or interest and as to the contract or transaction are disclosed or are known to the Committee Members entitled to vote thereon, and the contract or transaction is specifically authorized, approved, or ratified in good faith either (1) by vote of the Board of Directors or (2) by vote of the Board of Managers; or

(c) Fairness in Fact. The contract or transaction is fair as to the LLC as of the time it is authorized, approved or ratified by the Committee, the Board of Managers, or the Board of Directors.

Interested Committee Members may be counted in determining the presence of a quorum at any meeting of the Committee, the Board of Directors, or the Board of Managers which authorizes, approves, or ratifies the contract or transaction. No Committee Member shall be liable or accountable to the LLC or MHDC or to any person either for any loss to the LLC or to any other person or for any gains or profits realized by such Committee Member by reason of any contract or transaction as to which clause (a), (b), or (c) above is applicable.

Notwithstanding the provisions of this section, no Committee Member who is also a state employee shall have any personal financial interest in any contract or transaction of the LLC.

8.08 Calling of Committee Meetings. Meetings of the Committee shall be held whenever called, in writing, by the Chief Executive Officer, the Board of Managers, or by a majority of all of the Committee Members.

8.09 Place of Meetings. Meetings shall be held at the principal office of the LLC, or at such other place within Massachusetts as the person(s) calling for such meeting reasonably may designate, at such day and hour as may be reasonably designated by the person(s) who called the meeting.

8.10 Notice of Meeting. Notice of any meeting of the Committee, stating the place, day and hour of any meeting, the purpose or purposes for which the meeting is called, and any other business to be transacted at the meeting, shall be given at least seventy-two (72) hours before the meeting by electronic mail, facsimile or by delivery to the Committee Member. Notices by electronic mail or facsimile shall be directed to the applicable electronic mail address or facsimile telephone number for each Committee Member known to the LLC. Notices of Committee meetings shall be given by the Chief Executive Officer or such other person as the Chief Executive Officer may designate.

8.11 Waivers of Notice. Notice of a Committee meeting need not be given to any Committee Member who provides a written waiver of notice. Such waivers of notice shall be filed with the records of the meeting.

8.12 Quorum. At any meeting of the Committee, the presence of one-half of the Committee Members qualified to vote shall constitute a quorum. The continued presence of a quorum is presumed unless the Chairman or a Committee Member declares the lack thereof upon noticing the absence of a quorum.

If at the outset of any meeting there is less than a quorum present, a majority of those Committee Members present may vote (1) to adjourn immediately; or (2) to adjourn temporarily and to reconvene without the necessity of further notice at a time within two hours to ascertain whether or not a quorum is then present. If upon reconvening a quorum is not present, the meeting shall be adjourned immediately, and any subsequent meeting shall require notice pursuant to these Rules.

8.13 Action by Vote.

(a) Committee Vote: Action by the Committee may be taken or authorized by an affirmative majority vote of the Committee Members present and qualified to vote, taken at a meeting duly called and at which a quorum is present. (Such a vote shall hereinafter sometimes be referred to as a "Resolution".)

(b) Absentee Voting; Proxy Voting: Absentee voting and proxy voting, or either of them, may be permitted on such questions as may be determined by the Chairman. Absentee and proxy voting, if authorized, shall be conducted in accordance with Robert's Rule of Order, Newly Revised unless inconsistent with these Rules.

(c) Secret Ballots and Roll Call Votes: Secret ballots shall be taken upon a request by Resolution of the Committee Members. A roll call vote shall be taken when requested by any Committee Member.

(d) Action by Written Consent: Any action to be taken by the Committee may be accomplished without a meeting if all the Committee Members qualified to vote on the particular matter consent to the matter in writing. Such written consent shall be filed with the records of the meeting, and shall be deemed for all purposes a unanimous vote of the Committee Members taken at a meeting.

8.14 Chairman, Rules and Procedure.

(a) Chairman: The Chairman of the Board of Managers shall be the Chairman of the Committee. The Chairman shall preside over all Committee meetings. The Chairman may appoint a Committee member to preside over Committee meeting(s) when the Chairman is unable to attend.

(b) Rules of Order and Procedures: The Chairman of the Committee shall establish rules of order (such as but not limited to these Rules and any amendments and additions hereto) and operating procedures and practices governing the operation of the Committee. Where not inconsistent with these Rules, meetings shall be governed procedurally by Robert's Rules of Order, Newly Revised.

(c) Minutes and Records: The Chairman shall cause the Committee to keep minutes of each meeting, which shall be submitted promptly to the Board of Managers. The records of the Committee shall be held by the LLC. The Board of Managers and all other interested parties may rely on a certificate of the Chairman as evidence of any Committee action.

(d) Directors' and Managers' Attendance: Any Director of MHDC or Manager of the LLC may attend any Committee meeting.

ARTICLE IX: Dissolution.

9.01 Events Causing Dissolution. The LLC shall be dissolved and its affairs wound up upon the following events:

(a) the election to dissolve the LLC made in writing by the Member;

(b) the election to dissolve the LLC made in writing by the Board of Managers with the Consent of the Member;

(c) the Bankruptcy or dissolution of the Member;

(d) any consolidation or merger of the LLC with or into any entity following which the LLC is not the resulting or surviving entity; or

(e) upon the occurrence of an event specified under the laws of the Commonwealth of Massachusetts as one requiring dissolution, except that where, under the terms of this Agreement or the Act, the LLC is not to terminate, then the LLC shall immediately be reconstituted and reformed on all the applicable terms, conditions and provisions of this Agreement.

9.02 Continuation of the LLC. Notwithstanding the occurrence of an event specified in Section 9.01(e), (unless such event would make it illegal for the LLC to continue) the LLC shall not be dissolved and its business and affairs shall not be discontinued, and the LLC shall remain in existence as a limited liability company under the laws of the Commonwealth of Massachusetts, if the Member acting by Consent, elects within 90 days after such occurrence to continue the LLC and the LLC's business.

9.03 Procedures on Dissolution. Dissolution of the LLC shall be effective on the day on which occurs the event giving rise to the dissolution, but the LLC shall not terminate until the Certificate shall have been canceled and the assets of the LLC shall have been distributed as provided herein. Notwithstanding the dissolution of the LLC, prior to the termination of the LLC, as aforesaid, the business of the LLC and the affairs of the Member, as such, shall continue to be governed by this Agreement. The Board of Managers or a liquidator appointed by the Board of Managers, shall liquidate the assets of the LLC, apply and distribute the proceeds thereof as contemplated by this Agreement and cause the cancellation of the Certificate.

9.04 Distributions upon Liquidation.

(a) After payment of liabilities owing to creditors, the Board of Managers or such liquidator shall set up such reserves as it deems reasonably necessary for any contingent or unforeseen liabilities or obligations of the LLC. Said reserves may be paid over by the Board of Managers or such liquidator to a bank, to be held in escrow for the purpose of paying any such contingent or unforeseen liabilities or obligations, and, at the expiration of such period as the Board of Managers or such liquidator may deem advisable, such reserves shall be distributed to the Member or its assigns in the manner set forth in paragraph (b), below.

(b) After paying such liabilities and providing for such reserves, the Board of Managers or liquidator shall cause the remaining net assets of the LLC to be distributed to the Member. In the event that any part of such net assets consists of notes or accounts receivable or other non-cash assets, the Board of Managers or liquidator may take whatever steps it deems appropriate to convert such assets into cash or into any other form which would facilitate the distribution thereof.

(c) Notwithstanding any other provision to the contrary herein, under no circumstances shall the earnings or assets of the LLC remaining to be distributed after paying such liabilities and providing for such reserves as specified above, be distributed to any individual or to any organization that does not qualify as a 501(c)(3) organization that the payment of contributions to which are deductible under Section 170 (c) of the Code, and that will best accomplish the purpose for which MHDC was organized. Any such assets not so distributed within a reasonable period of time after the dissolution of the LLC shall be disposed of in accordance with the direction of any court having jurisdiction in the county in which the principal office of the LLC last was located, exclusively in such manner as in the judgment of such court will best accomplish the purpose for which MHDC was organized.

ARTICLE X: General Provisions

10.01 Notices. Except for notices of meetings of Managers and Members, notice of which shall be given as otherwise provided for herein, respectively, any and all notices under this Agreement shall be effective (a) on the fourth business day after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) on the first business day after being sent by express mail, or commercial overnight delivery service providing a receipt for delivery; (c) on the date of hand delivery; or (d) on the date actually received, if sent by any other method. To be effective, all such notices shall be addressed, if to the LLC, at its registered office under the Act, and if to a Member or Manager, at the last address of record on the LLC books.

10.02 Word Meanings. Words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole, and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural, and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

10.03 Binding Provisions. Subject to the restrictions on transfers set forth herein, the covenants

and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, legal representatives, successors and assigns.

10.04 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, including the Act, as interpreted by the courts of the Commonwealth of Massachusetts, notwithstanding any rules regarding choice of law to the contrary.

10.05 Counterparts. This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the same counterpart.

10.06 Separability of Provisions. Each provision of this Agreement shall be considered separable. To the extent that any provision of this Agreement is prohibited or ineffective under the Act, this Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act (and, if the Act is subsequently amended or interpreted in such manner as to make effective any provision of this Agreement that was formerly rendered invalid, such provision shall automatically be considered to be valid from the effective date of such amendment or interpretation).

10.07 Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

10.08 Amendments. Except as otherwise specifically provided in this Agreement, this Agreement may be amended or modified only by a writing approved by the Member, acting by Consent or otherwise, provided however, that no such amendment shall increase the liability of or increase the obligations of the Board of Managers without the prior approval of the Board of Managers.

10.09 Third-Party Beneficiaries. The provisions of this Agreement are not intended to be for the benefit of any creditor (other than the Member who may from time to time be a creditor) or other person to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the LLC or any of the Members or Managers. Moreover, notwithstanding anything contained in this Agreement, including, no such creditor or other person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in respect of any debt, liability or obligation (or otherwise) against the LLC or any Member or Manager.

10.10 Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter. The Member and Managers hereby agree that the Member and each Manager shall be entitled to rely on the provisions of this Agreement, and no Member or Manager shall be liable to the LLC or any other Member or Manager for any action or refusal to act taken in good faith reliance on the terms of this Agreement.

