

FILE

CSD ENERGY ADVISORS, LLC RECEIVED-DOCKETING DIV
406 Kari Court
Houston, Texas 77024

2014 MAR -3 PM 2: 36

PUCO

February 27, 2014

Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

14-365-EL-AG-6

Re: Certification Application for Aggregators/Power Brokers

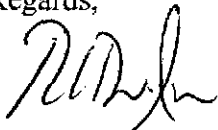
To Whom It May Concern:

Attached please find one original notarized Certification Application for Aggregators/Power Brokers, and three additional copies, together with all required exhibits, affidavits and other attachments.

CSD Energy Advisors, LLC is seeking certification as a Power Broker in the state of Ohio. If you have any questions regarding the attached application, please contact the undersigned at the number/address/email set forth below.

Thanks in advance for your assistance in this manner.

Regards,



Robert W. James
Managing Director
CSD Energy Advisors, LLC
406 Kari Court
Houston, Texas 77024
(713) 203-1641
rwj@csdeneryadvisors.com

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The Public Utilities Commission of Ohio

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| Date Received | Case Number | Version |
| 3/3/2014 | 14-365-EL-AGG | August 2004 |

CERTIFICATION APPLICATION FOR AGGREGATORS/POWER BROKERS

Please print or type all required information. Identify all attachments with an exhibit label and title (Example: Exhibit A-5 Experience). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division; 180 East Broad Street, Columbus, Ohio 43215-3793.

**This PDF form is designed so that you may input information directly onto the form.
You may also download the form, by saving it to your local disk, for later use.**

A. APPLICANT INFORMATION

A-1 Applicant's legal name, address, telephone number and web site address

Legal Name CSD Energy Advisors, LLC
Address 406 Kari Court, Houston, Texas 77024
Telephone # (713) 203-1641 Web site address (if any) n/a

A-2 List name, address, telephone number and web site address under which Applicant will do business in Ohio

Legal Name CSD Energy Advisors, LLC
Address 406 Kari Court, Houston, Texas 77024
Telephone # (713) 203-1641 Web site address (if any) n/a

A-3 List all names under which the applicant does business in North America

CSD Energy Advisors, LLC

A-4 Contact person for regulatory or emergency matters

Name Robert W. James
Title Managing Director

Business address 406 Kari Court, Houston, Texas 77024
Telephone # (713) 203-1641 Fax # _____
E-mail address (if any) rwj@csdenegyadvisors.com

A-5 Contact person for Commission Staff use in investigating customer complaints

Name Robert W. James
Title Managing Director
Business address 406 Kari Court, Houston, Texas 77024
Telephone # (713) 203-1641 Fax # _____
E-mail address (if any) rwj@csdenegyadvisors.com

A-6 Applicant's address and toll-free number for customer service and complaints

Customer Service address 406 Kari Court, Houston, Texas 77024
Toll-free Telephone # (800) 937-5318 Fax # _____
E-mail address (if any) rwj@csdenegyadvisors.com

A-7 Applicant's federal employer identification number # 464796262

A-8 Applicant's form of ownership (check one)

- | | |
|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Partnership (LLP) | <input type="checkbox"/> Limited Liability Company (LLC) |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Other _____ |

A-9 (Check all that apply) Identify each electric distribution utility certified territory in which the applicant intends to provide service, including identification of each customer class that the applicant intends to serve, for example, residential, small commercial, mercantile commercial, and industrial. (A mercantile customer, as defined in (A) (19) of Section 4928.01 of the Revised Code, is a commercial customer who consumes more than 700,000 kWh/year or is part of a national account in one or more states).

- | | | | | |
|--|--------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> First Energy | | | | |
| <input type="checkbox"/> Ohio Edison | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Toledo Edison | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Cleveland Electric Illuminating | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Duke Energy | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Monongahela Power | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> American Electric Power | | | | |
| <input type="checkbox"/> Ohio Power | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Columbus Southern Power | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |
| <input type="checkbox"/> Dayton Power and Light | <input type="checkbox"/> Residential | <input type="checkbox"/> Commercial | <input type="checkbox"/> Mercantile | <input type="checkbox"/> Industrial |

- A-10 Provide the approximate start date that the applicant proposes to begin delivering services

April 1, 2014

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

- A-11 **Exhibit A-11 "Principal Officers, Directors & Partners"** provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.
- A-12 **Exhibit A-12 "Corporate Structure,"** provide a description of the applicant's corporate structure, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers and companies that aggregate customers in North America.
- A-13 **Exhibit A-13 "Company History,"** provide a concise description of the applicant's company history and principal business interests.
- A-14 **Exhibit A-14 "Articles of Incorporation and Bylaws,"** if applicable, provide the articles of incorporation filed with the state or jurisdiction in which the Applicant is incorporated and any amendments thereto.
- A-15 **Exhibit A-15 "Secretary of State,"** provide evidence that the applicant has registered with the Ohio Secretary of the State.

B. APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

- B-1 **Exhibit B-1 "Jurisdictions of Operation,"** provide a list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail or wholesale electric services including aggregation services.
- B-2 **Exhibit B-2 "Experience & Plans,"** provide a description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4928.10 of the Revised Code.

B-3 **Exhibit B-3 "Summary of Experience,"** provide a concise summary of the applicant's experience in providing aggregation service(s) including contracting with customers to combine electric load and representing customers in the purchase of retail electric services. (e.g. number and types of customers served, utility service areas, amount of load, etc.).

B-4 **Exhibit B-4 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational status or ability to provide the services it is seeking to be certified to provide.

B-5 Disclose whether the applicant, a predecessor of the applicant, or any principal officer of the applicant have ever been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.

☒ No ☐ Yes

If yes, provide a separate attachment labeled as **Exhibit B-5 "Disclosure of Consumer Protection Violations"** detailing such violation(s) and providing all relevant documents.

B-6 Disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail or wholesale electric service including aggregation service denied, curtailed, suspended, revoked, or cancelled within the past two years.

☒ No ☐ Yes

If yes, provide a separate attachment labeled as **Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation"** detailing such action(s) and providing all relevant documents.

C. APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE

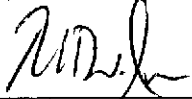
PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

C-1 **Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information in Exhibit C-1 or indicate that Exhibit C-1 is not applicable and why.

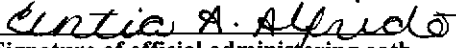
C-2 **Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 that the applicant is not required to file with the SEC and why.

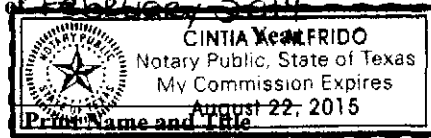
- C-3** **Exhibit C-3 “Financial Statements,”** provide copies of the applicant’s two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business.
- C-4** **Exhibit C-4 “Financial Arrangements,”** provide copies of the applicant’s financial arrangements to conduct CRES as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.,).
- C-5** **Exhibit C-5 “Forecasted Financial Statements,”** provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant’s CRES operation, along with a list of assumptions, and the name, address, e-mail address, and telephone number of the preparer.
- C-6** **Exhibit C-6 “Credit Rating,”** provide a statement disclosing the applicant’s credit rating as reported by two of the following organizations: Duff & Phelps, Dun and Bradstreet Information Services, Fitch IBCA, Moody’s Investors Service, Standard & Poors, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant’s parent or affiliate organization that guarantees the obligations of the applicant.
- C-7** **Exhibit C-7 “Credit Report,”** provide a copy of the applicant’s credit report from Experian, Dun and Bradstreet or a similar organization.
- C-8** **Exhibit C-8 “Bankruptcy Information,”** provide a list and description of any reorganizations, protection from creditors or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.

C-9 **Exhibit C-9 "Merger Information,"** provide a statement describing any dissolution or merger or acquisition of the applicant within the five most recent years preceding the application.

 ROBERT W. JAMES
Signature of Applicant & Title MANAGING DIRECTOR

Sworn and subscribed before me this 28th day of FEBRUARY 2014
Month


Signature of official administering oath



My commission expires on August 22, 2015

AFFIDAVIT

State of TEXAS :

HOUSTON ss.
(Town)

County of HARRIS :

ROBERT W. JAMES, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/She is the MANAGING DIRECTOR (Office of Affiant) of CSD ENERGY ADVISORS, LLC (Name of Applicant);

That he/she is authorized to and does make this affidavit for said Applicant,

1. The Applicant herein, attests under penalty of false statement that all statements made in the application for certification are true and complete and that it will amend its application while the application is pending if any substantial changes occur regarding the information provided in the application.
2. The Applicant herein, attests it will timely file an annual report with the Public Utilities Commission of Ohio of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Division (A) of Section 4905.10, Division (A) of Section 4911.18, and Division (F) of Section 4928.06 of the Revised Code.
3. The Applicant herein, attests that it will timely pay any assessments made pursuant to Sections 4905.10, 4911.18, or Division F of Section 4928.06 of the Revised Code.
4. The Applicant herein, attests that it will comply with all Public Utilities Commission of Ohio rules or orders as adopted pursuant to Chapter 4928 of the Revised Code.
5. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the Applicant.
6. The Applicant herein, attests that it will fully comply with Section 4928.09 of the Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
7. The Applicant herein, attests that it will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
8. The Applicant herein, attests that it will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the Applicant will provide, the Applicant herein, attests that it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio. (Only applicable if pertains to the services the Applicant is offering)

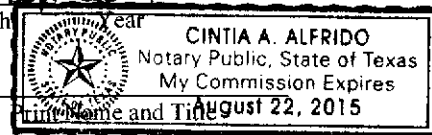
11. The Applicant herein, attests that it will inform the Commission of any material change to the information supplied in the application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating customer complaints.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

Robert W. James ROBERT W. JAMES
Signature of Affiant & Title MANAGING DIRECTOR

Sworn and subscribed before me this 28th day of FEBRUARY, 2014
Month Year

Cintia A. Alfrido
Signature of official administering oath



My commission expires on August 22, 2015

EXHIBITS TO CERTIFICATION APPLICATION
FOR AGGREGATORS/POWER BROKERS

CSD ENERGY ADVISORS, LLC

CSD ENERGY ADVISORS, LLC

Exhibit A-11 "Principal Officers, Directors & Partners"

The sole initial manager (director) of CSD Energy Advisors, LLC (the "Company") is Robert W. James. Mr. James is also serving as the sole officer, President and Managing Director of the Company. Mr. James is also the sole member (equity partner) of the Company. The address for Mr. James is 406 Kari Court, Houston, Texas 77024, and the phone number is (713) 203-1641.

CSD ENERGY ADVISORS, LLC

Exhibit A-12 “Corporate Structure”

CSD Energy Advisors, LLC is a newly formed entity wholly-owned by Robert W. James. There are no affiliates or subsidiary companies that supply retail or wholesale electricity or natural gas to customers and companies that aggregate customers in North America.

CSD ENERGY ADVISORS, LLC

Exhibit A-13 “Company History”

CSD Energy Advisors, LLC is a newly formed entity by Robert W. James. Mr. James has been involved in the energy industry for over 15 years, and specifically in the power brokerage business since 2003. In 2003, Mr. James formed an entity named Access Energy, LLC which provided energy consulting and brokerage of power to commercial customers, primarily in the state of Texas. Mr. James sold his interest in Access Energy, LLC to a business partner in 2006.

In 2008, Mr. James and other investors participated in a management buyout of Unified Energy Services, LLC (“Unified”) from its initial investors. Mr. James served on the board of Unified for the next several years, and was very involved with the structure and guidance of the business as a member of the board. Mr. James and the other outside investors sold their equity interests in Unified in 2010.

CSD ENERGY ADVISORS, LLC

Exhibit A-14 “Articles of Incorporation and Bylaws”

Attached hereto is a copy of the Certificate of Formation for CSD Energy Advisors, LLC in the state of Texas and the Limited Liability Agreement for the Company.



Office of the Secretary of State

CERTIFICATE OF FILING OF

CSD Energy Advisors, LLC
File Number: 801931888

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/11/2014

Effective: 02/11/2014



NANDITA BERRY

Nandita Berry
Secretary of State

FILED
In the Office of the
Secretary of State of Texas

FEB 11 2014

Corporations Section

CERTIFICATE OF FORMATION
OF
CSD ENERGY ADVISORS, LLC

The undersigned, acting as the sole organizer of a limited liability company under the Texas Business Organization Code (the "code"), does hereby adopt the following Certificate of Formation for CSD ENERGY ADVISORS, LLC (the "company"):

ARTICLE I

The name of the Company is CSD Energy Advisors, LLC.

ARTICLE II

The purpose for which the Company is formed is for the transaction of any or all lawful business for which limited liability companies may be organized under the Code.

ARTICLE III

The name of the initial registered agent of the Company in the State of Texas is Robert W. James, and the address of the registered office of such initial registered agent is 406 Kari Court, Houston, Texas 77024.

ARTICLE IV

The Company is to be managed by on or more managers. The initial number of managers shall be one (1). The number of managers constituting managers of the Company shall be set forth in the operating agreement of the Company. The name and address of the person who is to serve as the initial manager until the first meeting of the members, or until his successor is elected and qualified, is as follows:

NAME

ADDRESS

Robert W. James

406 Kari Court
Houston, TX 77024

ARTICLE V

No member shall have a preemptive right to acquire any membership interests or securities of any class that may at any time be issued, sold, or offered for sale by the Company.

ARTICLE VI

The right of members to cumulative voting in the election of managers is expressly prohibited.

ARTICLE VII

The company shall indemnify members, managers and officers of the Company for whom indemnification is permitted by the Code or to the fullest extent permitted by law. The Company may indemnify employees, agents or other persons for whom indemnification is permitted by the Code to the fullest extent permitted by law.

ARTICLE VIII

To the fullest extent permitted by law, managers or officers and former managers or officers of the Company shall not be liable to the Company or its members for monetary damages for an act or omission in the manager's or officer's capacity as a manager or officer, respectively. No amendment of this Article VIII shall adversely affect any right or protection of a manager or officer that exists at the time of such amendment, modification or repeal.

ARTICLE IX

Any action which may be taken at any meeting of members, or which is required by law or by the Certificate of Formation or regulations of the Company to be taken at any meeting of members, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holder or holders of membership interests having not less than the minimum number of votes that would be necessary to take such action at a meeting at which the holders of all membership interests entitled to vote on the action were present and voted. Prompt notice of the taking of any action by the members without a meeting by less than unanimous written consent shall be given to those members who did not consent in writing to the action.

ARTICLE X

The name and address of the organizer is as follows:

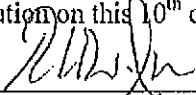
NAME

Robert W. James

ADDRESS

406 Karl Court
Houston, Texas 77024

The undersigned, the organizer of this Company, has signed this Certificate of Formation on this 10th day of February, 2013.



Robert W. James, Organizer

LIMITED LIABILITY COMPANY AGREEMENT

OF

CSD ENERGY ADVISORS, LLC, LLC

A Texas Limited Liability Company

Dated effective as of February 11, 2014

CSD ENERGY ADVISORS, LLC

LIMITED LIABILITY COMPANY AGREEMENT

THIS Limited Liability Company Agreement (the "Agreement") is made and entered into this 11th day of February, 2014 (the "Effective Date") by and between those individuals set forth on the attached Exhibit "A" (the "Members") and adopted by the Board of Managers of CSD Energy Advisors, LLC.

ARTICLE 1

DEFINITIONS

The following terms used in this Agreement shall have the following meanings:

- (a) "Act" means the Texas Business Organization Code.
- (b) "Certificate of Formation" means the Certificate of Formation of the Company filed with the Secretary of State of Texas, as amended from time to time.
- (c) "Capital Account" as of any given date means the Capital Contribution to the Company by a Member as adjusted to such date pursuant to Article 6.
- (d) "Capital Contribution" means any contribution to the capital of the Company in cash or property by a Member whenever made.
- (e) "Code" means the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.
- (f) "Company" means CSD Energy Advisors, LLC, a Texas Limited Liability Company.
- (g) "Deficit Capital Account" means with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the taxable year, after giving effect to the following adjustments:
 - (i) credit to such Capital Account that amount which such Member is obligated to restore under Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations, as well as any addition thereto pursuant to the next to last sentence of Sections 1.704-2(g)(1) and (i)(5) of the Treasury Regulations, after taking into account thereunder any changes during such year in partnership (Company) minimum gain (as determined in accordance with Section 1.704-2(d) of the Treasury Regulations) and in the minimum gain attributable to any partner (Member) for nonrecourse debt (as determined under Section 1.704-2(i)(3) of the Treasury Regulations); and

- (ii) debit to such Capital Account items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Treasury Regulations.

This definition of Deficit Capital Account is intended to comply with the provisions of Treasury Regulation Sections 1.704-1(b)(2)(ii)(d) and 1.704-2, and will be interpreted consistently with those provisions.

(h) "Distributable Cash" means all cash, revenues and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred in the operation of the Company's business; and (iii) such Reserves as the Managers deem reasonably necessary for the proper operation of the Company's business.

(i) "Economic Interest" means a Member's or Economic Interest Owner's share of one or more of the Company's Net Profits, Net Losses and distributions of the Company's assets pursuant to this Agreement and the Act, but shall not include any right to participate in the management or affairs of the Company, including, the right to vote on, consent to or otherwise participate in any decision of the Members or the Managers.

(j) "Economic Interest Owner" means the owner of an Economic Interest who is not a Member.

(k) "Entity" means any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, foreign trust or foreign business organization.

(l) "Initial Capital Contribution" means the initial contribution to the capital of the Company pursuant to this Agreement.

(m) "Majority Interest" means Percentage Interests of Members which in the aggregate exceed 50% of all Percentage Interests.

(n) "Manager" or "Managers" means those persons duly elected or appointed managers of the Company from time to time in accordance with the Certificate of Formation and the Agreement. The initial Managers of the Company shall be those persons set forth in the Certificate of Formation.

(o) "Member" means each of the parties who executes a counterpart of this Agreement as a Member and each of the parties who may hereafter become Members. To the extent a Manager has purchased a Membership Interest in the Company, he will have all the rights of a Member with respect to such Membership Interest, and the term "Member" as used herein shall include a Manager to the extent he has purchased such Membership Interest in the Company.

(p) "Membership Interest" means a Member's entire interest in the Company including such Member's Economic Interest and the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to or otherwise participate in any decision or action of or by the Members granted pursuant to this Agreement and the Act.

(q) "Net Profits" and "Net Losses" means the income, gain, loss, deductions and credits of the Company in the aggregate or separately stated, as appropriate, determined in accordance with generally accepted accounting principles employed under the accrual method of accounting at the close of each fiscal year on the Company's tax return filed for federal income tax purposes.

(r) "Percentage Interest" means, for any Member, the percentage interest in the Company as set forth on Exhibit A, as may be changed from time to time by a Majority Interest.

(s) "Permitted Transferee" means any member of such Member's immediate family or a trust, corporation, limited liability company or partnership controlled by such Member or members of such Member's immediate family or another Person controlling, controlled by or under common control with such Member.

(t) "Person" means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such "Person" where the context so permits.

(u) "Agreement" means this document as originally executed and as amended from time to time.

(v) "Reserves" means funds set aside or amounts allocated to reserves which shall be maintained in amounts deemed sufficient by the Managers for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company's business.

(w) "Treasury Regulations" shall include proposed, temporary and final regulations promulgated under the Code.

ARTICLE 2

ORGANIZATION AND BUSINESS OF THE COMPANY

2.1 Formation. The Company has been organized as a Texas limited liability company by executing and filing the Certificate of Formation with the Texas Secretary of State on February 11, 2014.

2.2 Name. The name of the Company is CSD Energy Advisors, LLC

2.3 Principal Place of Business. The principal place of business of the Company within the State of Texas shall be such place or places as the Manager deems appropriate. The

Company may locate its places of business at any other place or places, within or outside the State of Texas, as the Manager deems advisable.

2.4 Registered Office and Registered Agent. The Company's initial registered office shall be at the office of its registered agent set forth in the Certificate of Formation, and the name of its initial registered agent shall be that set forth in the Certificate of Formation. The registered office and registered agent may be changed by filing the address of the new registered office and/or the name of the new registered agent with the Texas Secretary of State pursuant to the Act.

2.5 Purpose. The purpose for which the Company is organized is set forth in the Certificate of Formation.

2.6 Term. The term of the Company is set forth in the Certificate of Formation.

2.7 Powers. The Company shall have any and all powers that are necessary or desirable to carry out the purposes and business of the Company, to the extent the same may be legally exercised by limited liability companies under the Act. The Company shall carry out the foregoing activities pursuant to the arrangements set forth in the Certificate of Formation of the Company and this Agreement.

2.8 Mergers and Exchanges. The Company may be a party to a merger or an exchange or acquisition of the type described in Article 10.01, *et seq.* of the Act, subject to the requirements of this Agreement.

2.9 No State-Law Partnership. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member or Manager be a partner or joint venturer, of any other Member or Manager, as it relates to the Company for any purpose other than federal and state tax purposes, and this Agreement may not be construed to suggest otherwise.

ARTICLE 3

MEMBERS; DISPOSITIONS OF INTERESTS

3.1 Members. The Members of the Company are the Persons listed on Exhibit "A" and executing this Agreement as Members as of the Effective Date, each of which is admitted to the Company as a Member effective contemporaneously with the execution by such Person of this Agreement.

3.2 Admission of Members.

(a) Subject to the restrictions on the disposition of Membership Interests set forth in Section 3.3, any Person acceptable to a Majority Interest may become a Member in this Company by the issuance by the Company of Membership Interests for such consideration as the Members shall determine. No new Members shall be entitled to any retroactive allocation of

losses, income or expense deductions incurred by the Company. Managers may, at their option, at the time a Member is admitted, close the Company books (as though the Company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to a new Member for that portion of the Company's tax year in which a Member was admitted in accordance with the provisions of Code Section 706(d) and the Treasury Regulations promulgated thereunder.

(b) In the event that a Person is permitted to become a new Member, the new Member must agree to be bound by the terms and conditions of this Agreement and execute a written document or restatement of this Agreement evidencing the same.

(c) Each Member hereby represents and warrants to the Company and each other Member that the Member is familiar with the existing or proposed business, financial condition, properties, operations and prospects of the Company; he has asked such questions, and conducted such due diligence, concerning such matters and concerning his acquisition of a Membership Interest as he has desired to ask and conduct, and all such questions have been answered to his full satisfaction; he has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of an investment in the Company; he understands that owning a Membership Interest involves various risks, including the Restrictions on Disposition of Membership Interests set forth in Section 3.3, the prohibition of withdrawal set forth in Section 3.5, the lack of any public market for Membership Interests, the risk of owning his Membership Interest for an indefinite period of time and the risk of losing his entire investment in the Company; he is able to bear the economic risk of such investment; he is acquiring his Membership Interest for investment, solely for his own beneficial account and not with a view to or any present intention of directly or indirectly selling, transferring, offering to sell or transfer, participating in any distribution, or otherwise disposing of all or a portion of his Membership Interest; and he acknowledges that the Membership Interest has not been registered under the Securities Act of 1933, as amended, or any other applicable federal or state securities laws, and that the Company has no intention, and has no obligation, to register or to obtain an exemption from registration for the Membership Interest or to take action so as to permit sales pursuant to the Securities Act of 1933, as amended, (including Rules 144 and 144A thereunder).

3.3 Disposition of Membership Interests.

(a) To the extent a Member desires to transfer all or a portion of his Interest, at least 30 days prior to making any transfer of any Membership Interest (such 30 days, the "Election Period"), the transferring Member (the "Transferring Member") shall deliver a written notice (an "Offer Notice") to the Company and the other Members (the "Other Members"). The Offer Notice shall disclose in reasonable detail the proposed percentage of Membership Interest to be transferred, the proposed terms and conditions of the transfer (including the purchase price), the type of consideration offered, whether cash, stock, promissory notes or otherwise, and the identity of the prospective transferee(s). Other Members may elect to purchase all (but not less than all) of their pro rata share of the Membership Interest specified in the Offer Notice at the price and on the terms specified in the Offer Notice by delivering written notice of such election to the Transferring Member and the Company within 15 days after delivery of the Offer Notice. If the Other Members have elected to purchase all of the Membership Interest from the

Transferring Member, the transfer of such Membership Interest shall be consummated as soon as practical after the delivery of the election notice(s) to the Transferring Member, but in any event within 15 days after the expiration of the Election Period (or such later time as is required to comply with applicable law). To the extent that the Other Members have not elected to purchase all of the Membership Interest being offered, the Transferring Member may transfer such Membership Interest to one or more third parties at a price no less than 100% of the price specified in the Offer Notice, on the same terms and conditions, subject to the other provisions of this Article III. The Closing for such transfer shall occur within 20 days after the end of the Election Period. If such transfer does not close within such 20 day period, or the terms and conditions have changed, then the Transferring Member must once again deliver a new Offer Notice detailing the new time frame and terms and conditions. Each Other Member's "pro rata share" shall be based on such Other Member's Membership Interests relative to all Member's Membership Interests other than the Membership Interest of the Transferring Member.

(b) Notwithstanding the provisions of Section 3.3(a), the Membership Interest of any Member in the Company may be transferred if (i) the transfer occurs by reason of or incident to the death, dissolution, divorce, liquidation, merger or termination of the transferor Member; and (ii) the transferee is a Permitted Transferee. If a Member who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the Member's executor, administrator, guardian, conservator or other legal representative may exercise all of the Member's rights for the purpose of settling his estate or administering his property.

(c) The Company may not recognize for any purpose any purported disposition of all or part of a Membership Interest unless and until the other applicable provisions of this Section 3.3 have been satisfied and

(i) the Managers have received, on behalf of the Company, a document:

(A) executed by both the Member effecting the disposition (or if the transfer is on account of the death, incapacity or liquidation of the transferor, its representative) and the Person to which the Membership Interest or part thereof is disposed;

(B) including the notice address of any Person to be admitted to the Company as a Member and its agreement to be bound by this Agreement in respect of the Membership Interest or part thereof being obtained; and

(C) setting forth the Membership Interest after the disposition of the Member effecting the disposition and the Person to which the Membership Interest or part thereof is disposed (which together must total the Membership Interest effecting the disposition before the disposition).

(ii) either (A) the Membership Interest or part thereof subject to the disposition or admission must be registered under the Securities Act of 1933, as

amended, and any applicable state securities laws; or (B) the Company must receive a favorable opinion of the Company's legal counsel or of other legal counsel acceptable to the Manager to the effect that the disposition or admission is exempt from registration under those laws. The Manager may waive the requirements of this Section 3.3(e).

Each disposition and, if applicable, admission complying with the provisions of this Section 3.3(c) is effective as of the first day of the calendar month immediately succeeding the month in which the Manager receives the notification of disposition and the other requirements of this Section 3.3 have been met.

(d) If any Member proposes to transfer any or all of its Membership Interest to a competitor of the Company, whether directly or indirectly, through a direct transfer or via the transfer of equity in a Member such that the Member ceases to be controlled by substantially the same Persons who control it as of the date of its admission to the Company, the Company shall have the option to buy, and on exercise of that option the breaching Member shall sell, the breaching Member's Membership Interest. In the alternative, if the breaching Member is an entity, the breaching Member may elect to transfer its Membership Interest to one or more of the Persons who control it as of the date of its admission to the Company.

(e) The Member effecting a disposition and any Person admitted to the Company in connection therewith shall pay or reimburse the Company for, all costs incurred by the Company in connection with the disposition or admission (including without limitation, the legal fees incurred in connection with the legal opinions referred to in Section 3.3(e(ii)) on or before the tenth (10th) day after the receipt by that Person of the Company's invoice for the amount due. If payment is not made by the date due, the Person owing that amount shall pay interest on the unpaid amount from the date due until paid at a rate per annum equal to the lesser of (i) the prime rate as listed in The Wall Street Journal from time to time with adjustments in the varying rate to be made on the same date as any changes in that date, and (ii) the maximum rate permitted by applicable law.

3.4 Information.

(a) Upon the written request of any Member, the Managers shall provide a list showing the names, addresses and Membership Interests of all Members or Economic Interest Owners.

(b) In addition to other informational rights specifically set forth in this Agreement, each Member is entitled to all information to which that Member is entitled to have access to pursuant to Article 2.22 of the Act under the circumstances and subject to the conditions therein stated.

(c) The Members acknowledge that, from time to time, they may receive information from or regarding the Company in the nature of trade secrets or that otherwise is confidential, the release of which may be damaging to the Company or Persons with which it does business. Each Member agrees to hold in strict confidence any information it receives regarding the Company that is identified as being confidential or reasonably should be

considered confidential and may not disclose it to any Person other than another Member or a Manager, except for disclosures:

(i) compelled by law (but the Member must notify the Manager promptly of any request for that information, before disclosing it if practicable);

(ii) to advisors or representatives of the Member or Persons to which that Member's Membership Interest may be disposed as permitted by this Agreement, but only if the recipients have agreed to be bound by the provisions of this Section 3.4(d); or

(iii) of information that Member also has received from a source independent of the Company that the Member reasonably believes obtained that information without breach of any obligation of confidentiality. The Members acknowledge that breach of the provisions of this Section 3.4(d) may cause irreparable injury to the Company for which monetary damages are inadequate, difficult to compute or both. Accordingly, the Members agree that the provisions of this Section 3.4(d) may be enforced by specific performance.

3.5 Withdrawal. A Member does not have the right or power to withdraw from the Company as a Member.

3.6 Lack of Authority. No Member (other than a Manager or an officer who is a Member) has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company or to incur any expenditures on behalf of the Company.

3.7 Liability to Third Parties. No Member or Manager or officer shall be liable for the debts, obligations or liabilities of the Company, including under a judgment decree or order of a court.

3.8 Approval of Sale of All Assets. The Members shall have the right, by the affirmative vote of Members, to approve the sale, exchange or other disposition of all or substantially all, of the Company's assets which is to occur as part of a single transaction or plan.

3.9 Priority and Return of Capital. Except as otherwise expressly provided in this Agreement, no Member or Economic Interest Owner shall have priority over any other Member or Economic Interest Owner as to Net Profits, Net Losses or distributions; provided that this section shall not apply to loans which a Member has made to the Company.

3.10 Spouses of Members. Spouses of Members do not become Members as a result of such marital relationship. Each spouse of a Member has executed a Spouse's Agreement in the form of Exhibit B attached hereto.

ARTICLE 4

MEETINGS OF MEMBERS

4.1 Meetings.

(a) Meetings of the Members for any purpose or purposes may be called by any Member or Members holding at least ten percent (10%) of the Percentage Interests or by the Manager.

(b) The Members shall have an annual meeting the third Thursday of May each year, or at such other time and place as determined by the Managers.

(c) Regular meetings of the Members may be held without notice at such time and at such place as shall from time to time be determined by the Manager.

(d) Special meetings of the Members may be held without notice at such time and place as shall be determined by the Members. Business transacted at all special meetings shall be confined to the purposes stated in the relevant notice, if any.

4.2 Place of Meetings. The Members may designate any place, either within or outside the State of Texas, as the place of meeting for any meeting of the Members.

4.3 Notice of Meetings of Members. If notice of a meeting of Members is required by this Agreement or the Act, written or printed notice stating the place, day and hour of any Member meeting and, in the case of special meetings, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the Managers or Person calling the meeting, to each Member of record entitled to vote at such meeting, to the extent such requirement is not inconsistent with the Act. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the membership transfer records of the Company, with postage prepaid.

4.4 Meeting of All Members. If all of the Members shall meet at any time and place, either within or outside of the State of Texas, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice (if any is required), and at such meeting lawful action may be taken.

4.5 Record Date. For the purpose of determining Members entitled to notice of (if required) or to vote at any meeting of Members or any adjournment thereof or Members entitled to receive payment of any distribution or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed, if any, or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 4.5, such determination shall apply to any adjournment thereof.

4.6 Quorum. Members holding a Majority Interest and entitled to vote at a meeting of the Members, present in person or represented by proxy, shall constitute a quorum at all meetings of the Members, for the transaction of business except as otherwise provided by law or by the Certificate of Formation. Once a quorum is present or represented at any meeting of the Members, the subsequent withdrawal from the meeting of any Member or its proxy prior to adjournment or the refusal of any Member or its proxy to vote shall not affect the presence of a quorum at the meeting. If, however, such quorum shall not be present or represented at any meeting of the Members, Members, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the original meeting.

4.7 Manner of Acting. Except as provided in Section 5.3, when a quorum is present or represented at any meeting, the affirmative vote of Members, present in person or represented by proxy, holding a majority of the Percentage Interests present shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by express provision of the Act, the Certificate of Formation or by this Agreement in which case such express provision shall govern and control the decision of such questions. Unless otherwise expressly provided herein or required under applicable law, only Members who have a Percentage Interest in the Company may vote or consent upon any matter and their vote or consent, as the case may be, shall be counted in the determination of whether the matter was approved by the Members.

4.8 Voting in the Election of the Managers. Managers shall be elected by the Members as provided in Section 5.

4.9 List of Members Entitled to Vote. The Managers shall make a complete list of the Members entitled to vote at each meeting of Members, or any adjournment of such meeting, arranged in alphabetical order, with the address of and the Percentage Interest held by each, which list shall be kept on file at the registered office of the Company and shall be subject to inspection by any Member at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to inspection of any Member during the whole time of the meeting. If any notice for a meeting is required, such list shall be made available at least ten (10) days before such meeting of Members. Failure to comply with the requirements of this Section 4.9 shall not affect the validity of any action taken at such meeting.

4.10 Registered Members. The Company shall be entitled to treat the holder of record of any Percentage Interest as the holder in fact of such Percentage Interest for all purposes, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such Percentage Interest on the part of any other Person, whether or not it shall have express or other notice of such claim or interest, except as expressly provided by this Agreement or the laws of Texas.

4.11 Actions Without a Meeting and Telephone Meetings. Notwithstanding any provision contained in this Agreement, any act required or permitted to be taken at any meeting of the Members may be taken without a meeting, without prior notice and without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the Members having not fewer than the minimum number of Percentage Interests that would be necessary to take the action at a meeting at which all Members entitled to vote on the action were present and voted. Members may participate in and hold a meeting of the Members by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting may hear one another.

4.12 Participation, Attendance and Waiver. Participation or attendance of a Member at any meeting constitutes presence in person at the meeting, and waiver of notice of such meeting, if required, except where a Member participates or attends in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice.

4.13 Proxies. At any meeting of the Members, any Member may designate another Person or Persons to act as a proxy or proxies. If any Member designates two or more Persons to act as proxies, a majority of those Persons present at the meeting or, if only one is present, then that one has and may exercise all of the powers conferred by the Member upon all of the Persons so designated unless the Member provides otherwise. No such proxy is valid after the expiration of eleven months from the date of its creation, unless it is coupled with an interest or unless the Member specifies in it the length of time for which it is to continue in force, which may not exceed ten (10) years from the date of its creation. Subject to these restrictions, any proxy properly created is not revoked and continues in full force and effect until an instrument or transmission revoking it or a properly created proxy bearing a later date is filed with or transmitted to the Managers or another Person or Persons appointed by the Company to count the votes of Members and determine the validity of the proxies and ballots.

4.14 Major Decisions; Super-Majority Required. The following actions brought before the Members for approval require the vote of at least seventy percent (70%) of the Members:

(a) any sale, pledge or disposition of or incurrence of a lien on (or series of related sales, pledges, dispositions or liens during any consecutive twelve month period) any of its assets having a value in excess of \$20,000, other than in the ordinary course of business consistent with past practice;

(b) any merger, consolidation or other business combination of the Company, or any substantial portion of the assets thereof, and another Person or any acquisition of any other business or entity through the purchase of stock or assets of such business or entity;

(c) the institution of any liquidation, dissolution, reorganization, arrangement or insolvency proceedings or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors;

(d) making any payments or capital expenditures in excess of \$30,000 in the aggregate not included in the annual budget for the Company;

(e) the filing by the Company of any registration statement with the Securities and Exchange Commission;

(f) the approval of any additional capital contribution from any Member;

(g) any change to the Company's name;

(h) the settlement, dismissal or other disposition of any litigation or arbitration to which the Company is a party, which settlement, dismissal or other disposition involves an amount in excess of \$50,000; and

(i) the approval of or any changes or modifications to any of the Company's then current insurance policies or employee benefit plans.

(j) any change in, or amendment to, this Agreement or the Company's Certificate of Formation; and

(k) any change in the employee payroll, bonus structure, benefits or incentive plans that could affect distributions to Members.

ARTICLE 5

RIGHTS AND DUTIES OF THE MANAGERS

5.1 Management. The powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of its Managers. In addition to the powers and authorities expressly conferred by this Agreement upon the Managers, the Managers may exercise all such powers of the Company and do all such lawful acts and things as are not directed or required to be exercised or done by the Members by the Act, the Certificate of Formation or this Agreement, including, without limitation, contracting for or incurring debts, liabilities and other obligations on behalf of the Company.

(a) The Managers may delegate to itself such authority and duties as the Managers deem advisable, and which the Act does not require to be exercised by the Members or which the Members have not reserved to themselves. If a title used by a Manager is one commonly used for officers of a business corporation formed under the Texas Business Corporation Act, the use of such title shall constitute the delegation to that Manager of the authority and duties normally associated with that office, subject to any specific delegation of authority and duties made pursuant to the first sentence of this Section 5.1(a). Any number of titles may be held by a Manager. Any delegation pursuant to this Section 5.1(a) may be revoked at any time by the Manager.

(b) In addition to Managers using officer titles, one or more persons, who may or may not be Managers or Members, may be designated as officers of the Company by the Manager. If a person is designated an officer with respect to any of the above titles, then the Managers may only use such titles and have such powers as have not been designated to an officer.

5.2 Number and Qualifications. The initial number of Managers of the Company shall be as set forth in the Certificate of Formation. When more than one (1) Manager is appointed, the Managers in their discretion may elect a chairman of the Managers who shall preside at meetings of the Managers.

5.3 Election. Each Manager shall be elected by the vote of a Majority Interest. A Manager shall hold office indefinitely until the Members shall decide to hold a meeting and elect a new Manager to succeed or replace him, or until that Manager's earlier death, dissolution, retirement, resignation or removal.

5.4 Vacancy. Any vacancy occurring for any reason in the number of Managers shall be filled by the affirmative vote of Members holding at least a Majority Interest in the Company. A Manager elected to fill a vacancy shall be elected for the unexpired term of the predecessor in office.

5.5 Removal. Unless otherwise agreed upon by the Parties, at a meeting called expressly for such purpose, a Manager may be removed at any time, with or without cause, by the affirmative vote of Members holding at least a Majority Interest in the Company.

5.6 Place of Meetings. All meetings of Managers may be held either within or without the State of Texas.

5.7 Meetings of the Managers. Regular meetings of the Managers shall be held quarterly within forty-five (45) days of the end of each calendar quarter at such time and place as shall be determined by the Managers. Any special meetings may be held with twenty-four (24) hours notice at such time and place as shall from time to time be determined by the Managers.

5.8 Quorum. At all meetings of the Managers, the presence of a majority of the Managers shall be necessary and sufficient to constitute a quorum for the transaction of business unless a greater number is required by law, the Certificate of Formation or this Agreement. The act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Managers, except as otherwise provided by law, the Certificate of Formation or this Agreement. If a quorum shall not be present at any meeting of the Managers, the Managers present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

5.10 Actions Without a Meeting and Telephone Meetings. Notwithstanding any provision contained in this Agreement, any act required or permitted to be taken at any meeting of the Managers or any committee may be taken without a meeting, without prior notice, and

without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the Managers or committee members, as the case may be, having not fewer than the minimum number of votes that would be necessary to take the action at a meeting at which all Managers or committee members, as the case may be, entitled to vote on the action were present and voted.

5.11 Attendance and Waiver of Notice. Participation or attendance of a Manager at any meeting or committee meeting, as the case may be, constitutes presence in person at the meeting and waiver of notice of such meeting, if required, except where a Manager participates or attends in the meeting or committee meeting, as the case may be, for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. When any notice is required to be given to any Manager, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Manager need be specified in the notice (if any is required) or waiver of notice of such meeting.

5.12 Compensation of any Manager. A Manager, as such, shall not receive any stated compensation for his services, but shall receive such compensation for his services as may be from time to time agreed upon by Members holding at least a Majority Interest.

5.13 Committees. Managers may, by resolution, designate from among the Managers one or more committees, each of which shall be comprised of one or more Managers, and may designate one or more Managers as alternate members of any committee, who may, subject to any limitations imposed by the Managers, replace absent or disqualified Managers at any meeting of that committee. Any such committee, to the extent provided in such resolution or in this Agreement, shall have and may exercise all of the authority of the Managers, subject to any limitations set forth in the Act, by the Members or in this Agreement.

5.14 Liability for Certain Acts. Each Manager shall perform his duties as Manager in good faith, in a manner he reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent Person in a like position would use under similar circumstances. The liability of any Manager or officer or former Manager or officer of the Company to the Company for any loss or monetary damages for an act or omission in the Manager's or officer's capacity as Manager or officer, respectively, shall be limited as set forth in the Certificate of Formation.

5.15 Managers Have No Exclusive Duty to the Company. No Manager shall be required to manage the Company as its sole and exclusive function and a Manager may have other business interests and engage in activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Manager or to the income or proceeds derived therefrom.

5.16 Indemnity of Each Manager, Employees and Other Agents. The Company will indemnify and make advances for expenses to each Manager and officer, the Company's

employees and other agents to the extent required by Article 9 of this Agreement, the Act or other applicable law.

5.17 Resignation. Any Manager of the Company may resign at any time by giving written notice to the Members of the Company. The resignation of any Manager shall take effect upon receipt of notice thereof or at such later date specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The resignation of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of a Member.

ARTICLE 6

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

6.1 Members' Capital Contributions. Each Member shall contribute such amount as is set forth in Exhibit A hereto as his share of the Initial Capital Contribution. Notwithstanding any provision in this Agreement to the contrary, if a Member fails to contribute his share of the Initial Capital Contribution to the Company within ninety (90) days of the Effective Date, he shall cease to be a Member and shall have no further rights in and to the Company, but such Member shall still remain liable to the Company for his share of the Initial Capital Contribution.

6.2 Additional Contributions. A Member owes no additional Capital Contribution other than that set forth as his Initial Capital Contribution. If the Managers determine additional Capital Contributions to the Company may be needed, the Managers shall give written notice to each Member of the amount of the additional contribution requested, and each Member at his discretion may deliver to the Company its pro rata share thereof no later than thirty (30) days following the date such notice is given. No Member may be asked to give, relative to the other additional contributions, a Capital Contribution greater than the Member's Percentage Interest, without the Member's written consent. None of the terms, covenants, obligations or rights contained in this Section 6.2 is or shall be deemed to be for the benefit of any Person or Entity other than the Members and the Company, and no such third Person shall under any circumstances have any right to compel any actions or payments by the Manager and/or the Members.

6.3 Capital Accounts.

(a) A separate Capital Account will be maintained for each Member. Each Member's Capital Account will be increased by: (i) the amount of money contributed by such Member to the Company; (ii) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752); (iii) allocations to such Member of Net Profits and Net Losses; and (iv) allocations to such Member of income described in Code Section 705(a)(1)(B). Each Member's Capital Account will be decreased by: (w) the amount of money distributed to such Member by the Company; (x) the fair market value of property distributed to such Member by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code

Section 752); (y) allocations to such Member of expenditures described in Code Section 705(a)(2)(B); and (z) allocations to the account of such Member of Company loss and deduction as set forth in this Agreement, taking into account adjustments to reflect book value.

(b) In the event of a permitted sale or exchange of a Membership Interest or an Economic Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the transferee to the extent it relates to the transferred Membership Interest or Economic Interest in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 6.3 is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If the Company determines that the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 6.3 should be modified in order to comply with Code Section 704(b) and the Treasury Regulations, then notwithstanding anything to the contrary contained in the preceding provisions of this Section 6.3, the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members as set forth in this Agreement.

(d) Except as otherwise required by the Act, no Member or Economic Interest Owner shall have any liability to restore all or any portion of a deficit balance in such Member's or Economic Interest Owner's Capital Account.

ARTICLE 7

ALLOCATIONS, INCOME TAX, DISTRIBUTIONS, ELECTIONS AND REPORTS

7.1 Allocations of Profits and Losses from Operations. The Net Profits and Net Losses of the Company for each fiscal year will be allocated according to each Member's Percentage Interest set forth on Exhibit A.

7.2 Special Allocations to Capital Accounts. Notwithstanding Section 7.1 hereof:

(a) No allocations of loss, deduction and/or expenditures described in Code Section 705(a)(2)(B) shall be charged to the Capital Account of any Member if such allocation would cause such Member to have a Deficit Capital Account. The amount of the loss, deduction and/or Code Section 705(a)(2)(B) expenditure which would have caused a Member to have a Deficit Capital Account shall instead be charged to the Capital Account of any Members which would not have a Deficit Capital Account as a result of the allocation, in proportion to their respective Capital Contributions or, if no such Members exist, then to the Members in accordance with their interests in Company Net Profits pursuant to Section 7.1.

(b) In the event any Member unexpectedly receives any adjustments, allocations or distributions described in Sections 1.704-1(b)(2)(ii)(d)(4), (5), (6) of the Treasury Regulations, which create or increase a Deficit Capital Account of such Member, then items of

Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for such year and, if necessary, for subsequent years) shall be specially credited to the Capital Account of such Member in an amount and manner sufficient to eliminate, to the extent required by the Treasury Regulations, the Deficit Capital Account so created as quickly as possible. It is the intent that this Section 7.2(b) be interpreted to comply with the alternate test for economic effect set forth in Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations.

(c) In the event any Member would have a Deficit Capital Account at the end of any Company taxable year which is in excess of the sum of any amount that such Member is obligated to restore to the Company under Section 1.704-1(b)(2)(ii)(c) of the Treasury Regulations and such Member's share of minimum gain as defined in Section 1.704-2(g)(1) of the Treasury Regulations (which is also treated as an obligation to restore in accordance with Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations), the Capital Account of such Member shall be specially credited with items of membership income (including gross income) and gain in the amount of such excess as quickly as possible.

(d) Notwithstanding any other provision of this Section 7.2, if there is a net decrease in the Company's minimum gain as defined in Section 1.704-2(d) of the Treasury Regulations during a taxable year of the Company, then, the Capital Account of each Member shall be allocated items of income (including gross income) and gain for such year (and if necessary for subsequent years) equal to that Member's share of the net decrease in Company minimum gain. This Section 7.2(d) is intended to comply with the minimum gain chargeback requirement of Section 1.704-2 of the Treasury Regulations and shall be interpreted consistently therewith.

(e) Items of Company loss, deduction and expenditures described in Code Section 705(a)(2)(B) which are attributable to any nonrecourse debt of the Company and are characterized as partner (Member) nonrecourse deductions under Section 1.704-2(i) of the Treasury Regulations shall be allocated to the Members' Capital Accounts in accordance with [Section 1.704-2(i) of the Treasury Regulations.

(f) Beginning in the first taxable year in which there are allocations of "nonrecourse deductions" (as described in Section 1.704-2(b) of the Treasury Regulations) such deductions shall be allocated to the Members in accordance with, and as part of, the allocations of Company Net Profits or Net Losses for such period.

(g) In accordance with Code Section 704(c), if a Member contributes property with a fair market value that differs from its adjusted basis at the time of contribution, income, gain, loss and deductions with respect to the property shall, solely for federal income tax purposes, be allocated among the Members so as take account of any variation between the adjusted basis of such property to the Company and its fair market value at the time of contribution.

(h) Pursuant to Code Section 704(c)(1)(B), if any contributed property is distributed by the Company other than to the contributing Member within five years of being

contributed, then, except as provided in Code Section 704(c)(2), the contributing Member shall be treated as recognizing gain or loss from the sale of such property in an amount equal to the gain or loss that would have been allocated to such Member under Code Section 704(c)(1)(A) if the property had been sold at its fair market value at the time of the distribution.

(i) In connection with a Capital Contribution of money or other property (other than a *de minimis* amount) by a new or existing Member or in connection with the liquidation of the Company or a distribution of money or other property (other than a *de minimis* amount) by the Company to a retiring Member, the Capital Accounts of the Members shall be adjusted to reflect a revaluation of Company property (including intangible assets) in accordance with Section 1.704-1(b)(2)(iv)(f) of the Treasury Regulations. If, under Section 1.704-1(b)(2)(iv)(f) of the Treasury Regulations, Company property that has been revalued is properly reflected in the Capital Accounts and on the books of the Company at a book value that differs from the adjusted tax basis of such property, then depreciation, depletion, amortization and gain or loss with respect to such property shall be shared among the Members in a manner that takes account of the variation between the adjusted tax basis of such property and its book value, in the same manner as variations between the adjusted tax basis and fair market value of property contributed to the Company are taken into account in determining the Members' shares of tax items under Code Section 704(c).

(j) Any credit or charge to the Capital Accounts of the Members pursuant to Sections 7.2(b), (c), and/or (d), hereof shall be taken into account in computing subsequent allocations of profits and losses pursuant to Section 7.1, so that the net amount of any items charged or credited to Capital Accounts pursuant to Sections 7.1 and 7.2 shall to the extent possible, be equal to the net amount that would have been allocated to the Capital Account of each Member pursuant to the provisions of this Article 7 if the special allocations required by Sections 7.2(b), (c), and/or (d), had not occurred.

7.3 Distributions.

(a) Except as otherwise provided in Sections 7.4 and 8.2, Distributable Cash, if any, shall be distributed not later than the thirtieth day after the end of each calendar quarter to the Members in accordance with their Percentage Interest as set forth in Exhibit "A."

(b) All amounts withheld pursuant to the Code or any provisions of state or local tax law with respect to any payment or distribution to the Members from the Company shall be treated as amounts distributed to the relevant Member or Members pursuant to this Section 7.3.

(c) Unless otherwise approved by Members owning a Majority Interest, a Member whose Membership Interest is terminated for any reason shall not be entitled to receive any distributions in excess of those distributions to which such Member would have been entitled had such Member remained a Member. If a Member's Membership Interest is terminated, but he has a successor via operation of law, that successor becomes, to the extent permitted by law, an Economic Interest Owner only.

7.4 Limitation upon Distributions.

(a) The Company may not make a distribution to its Members to the extent that, immediately after giving effect to the distribution, all liabilities of the Company, other than liabilities to Members with respect to their interests and liabilities for which the recourse of creditors is limited to specified property of this Company, exceed the fair value of the Company's assets, except that the fair value of property that is subject to a liability for which recourse of creditors is limited shall be included in the Company's assets only to the extent that the fair value of that property exceeds that liability.

(b) A Member who receives a distribution that is not permitted under this Agreement has no liability under the Act to return the distribution unless the Member knew that the distribution violated the prohibition of the Act. This does not affect any obligation of the Members under this Agreement or other applicable law to return the distribution.

(c) Except as otherwise provided by the Certificate of Formation or this Agreement, a Member has no right to receive any distribution from this Company in any form other than cash.

7.5 Return of Capital Contributions. A Member is not entitled to the return of any part of his Capital Contributions or to be paid interest in respect of either his Capital Account or his Capital Contributions. An unrepaid Capital Contribution is not a liability of the Company or of any Member.

7.6 Loans to Company. Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company.

7.7 Accounting Period. The Company's accounting period shall be the calendar year ("Fiscal Year").

7.8 Records, Audits and Report. At the expense of the Company, the Manager shall maintain and keep at the Company's principal place of business records and accounts of the operations and expenditures of the Company, including, without limitation, the items set forth in Section 3.4 of this Agreement.

7.9 Returns and Other Elections. The Manager shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns or pertinent information therefrom, shall be furnished to the Members within a reasonable time after the end of the Fiscal Year. All elections permitted to be made by the Company under federal or state laws shall be made by the Manager in his sole discretion, provided that the Manager shall make any tax election requested by Members owning a Majority Interest.

7.10 Tax Matters Member. Robert W. James is designated the "Tax Matters Partner" (as defined in Code Section 6231), and is authorized and required to represent the Company (at

the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including, without limitation, administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Members agree to cooperate with each other and to do or refrain from doing any and all things reasonably required to conduct such proceedings.

7.11 Right to Indemnification of Tax Matters Partner. Subject to the limitations and conditions provided in this Section 7.11, the Company shall indemnify the Tax Matters Partner of the Company from and against any and all judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including without limitation attorneys' fees) actually incurred by such Person in performing its duties as the Tax Matters Partner of the Company; provided that the Company shall not be liable to any Person acting as Tax Matters Partner of the Company for any portion of such judgments, penalties, fines, settlements or reasonable expenses resulting from such Person's gross negligence or willful misconduct. Any indemnification of the Tax Matters Partner in accordance with this Section 7.11 shall be reported in writing to the Members with or before the notice, if any or waiver of notice of the next Members' meeting or with or before the next submission to Members of a consent to action without a meeting and, in any case, within the twelve (12) month period immediately following the date of the indemnification.

ARTICLE 8

DISSOLUTION AND TERMINATION

8.1 Dissolution.

(a) The Company shall be dissolved upon the occurrence of any of the following:

(i) the expiration of the period fixed for the duration of the Company set forth in the Certificate of Formation;

(ii) by the written consent of Members holding a Majority Interest; or

(iii) the entry of a decree of judicial dissolution of the Company under Article 6.02 of the Act.

The Company is not dissolved if an Event of Dissolution described by Section 8.1(a)(i) or 8.1(a)(ii) occurs, there is at least one remaining Member and the business of the Company is continued by the vote of a Majority Interest of the remaining Members within 90 days of the dissolution event.

8.2 Winding Up, Liquidation and Distribution of Assets. Upon dissolution of the Company, the Manager shall act as liquidator or may appoint one or more Members as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be

borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company properties with all of the power and authority of the Manager.

(a) The steps to be accomplished by the liquidator are as follows:

(i) as promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable;

(ii) the liquidator shall cause the notice described in Article 6.05(A)(2) of the Act to be mailed to each known creditor of and claimant against the Company in the manner described in such Article 6.05(A)(2);

(iii) the liquidator shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including, without limitation, all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and

(iv) all remaining assets of the Company shall be distributed to the Members as follows:

(A) the liquidator may sell any or all Company property, including to Members (although Members have no right to any distribution otherwise than in cash), and any resulting gain or loss from each sale shall be computed and allocated to the Capital Accounts of the Members and Economic Interest Owners pursuant to the provisions of Article 7 of this Agreement.

(B) with respect to all Company property that has not been sold, the fair market value of that property shall be determined and the Capital Accounts of the Members and Economic Interest Owners shall be adjusted pursuant to the provisions of Article 7 and Section 6.3 of this Agreement to reflect the manner in which the unrealized income, gain, loss, and deduction inherent in property that has not been reflected in the Capital Accounts previously would be allocated among the Members if there were a taxable disposition of that property for the fair market value of that property on the date of distribution; and

(C) Company property shall be distributed among the Members in accordance with the positive Capital Account balances of the Members, as determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the liquidation of the Company occurs (other than those made by reason of this clause (C)); and those distributions shall be made by the end of the taxable year of the Company during which the

liquidation of the Company occurs (or, if later, ninety (90) days after the date of the liquidation).

All distributions in kind, if any, to the Members shall be made subject to the liability of each distributee for costs, expenses and liabilities theretofore incurred or for which the Company has committed prior to the date of termination and those costs, expenses and liabilities shall be allocated to the distributee pursuant to this Section 8.2. The distribution of cash and/or property to a Member in accordance with the provisions of this Section 8.2 constitutes a complete distribution to the Member of his Membership Interest and all the Company's property and constitutes a compromise to which all Members have consented within the meaning of the Act. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

(b) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

(c) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(d) Any Manager shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

8.3 Articles of Dissolution; Effect. On completion of the distribution of the Company assets as provided herein, and upon termination of the Company, the Manager (or such other Person or Persons as the Act may require or permit) shall file the Articles of Dissolution, or such similar document as required pursuant to the Act, with the Secretary of State of Texas, and/or take other such actions as may be deemed necessary to terminate the Company as required by this Agreement or the Act. Upon the filing of Articles of Dissolution, or such similar document as required pursuant to the Act, with the Texas Secretary of State, the existence of the Company shall cease, except as otherwise provided in the Act. The Manager shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

ARTICLE 9

INDEMNIFICATION

9.1 Right to Indemnification. Subject to the limitations and conditions provided in this Article 9, each Person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil,

criminal, administrative, arbitral or investigative (hereinafter a "Proceeding") or any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he or a Person of whom he is the legal representative, is or was a Manager or officer of the Company or while a Manager or officer of the Company is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise shall be indemnified by the Company to the fullest extent permitted by the Act and other applicable law, as the same exist or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Company to provide broader indemnification rights than said law permitted the Company to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including without limitation attorneys' fees) actually incurred by such Person in connection with such Proceeding, and indemnification under this Article 9 shall continue as to a Person who has ceased to serve in the capacity which initially entitled such Person to indemnity hereunder. The rights granted pursuant to this Article 9 shall be deemed contract rights, and no amendment, modification or repeal of this Article 9 shall have the effect of limiting or denying any such rights with respect to actions taken or Proceedings arising prior to any such amendment, modification or repeal. It is expressly acknowledged that the indemnification provided in this Article 9 could involve indemnification for negligence or under theories of strict liability.

9.2 Advance Payment. The right to indemnification conferred in this Article 9 shall include the right to be paid or reimbursed by the Company the reasonable expenses incurred by a Person of the type entitled to be indemnified under Section 9.1 who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such Person in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Company of a written affirmation by such Manager or officer of his or her good faith belief that he has met the standard of conduct necessary for indemnification under this Article 9 and a written undertaking, by or on behalf of such Person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified Person is not entitled to be indemnified under this Article 9 or otherwise.

9.3 Indemnification of Employees and Agents. The Company, by adoption of a resolution by a majority of the Managers, may indemnify and advance expenses to an employee or agent of the Company to the same extent and subject to the same conditions under which it may indemnify and advance expenses to Managers and officers under this Article 9; and, the Company may indemnify and advance expenses to Persons who are not or were not Managers, officers, employees or agents of the Company but who are or were serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him and incurred by him in such a capacity or arising out of

his status as such a Person to the same extent that it may indemnify and advance expenses to Managers and officers under this Article 9.

9.4 Appearance as a Witness. Notwithstanding any other provision of this Article 9, the Company may pay or reimburse expenses incurred by a Manager or officer in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

9.5 Nonexclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article 9 shall not be exclusive of any other right which a Manager or officer or other Person indemnified pursuant to Section 9.3 may have or hereafter acquire under any law (common or statutory), provision of the Certificate of Formation or this Agreement, agreement, vote of Members or disinterested Managers or otherwise.

9.6 Insurance. The Company may purchase and maintain insurance, at its expense, to protect itself and any Person who is or was serving as a manager, officer, employee or agent of the Company or is or was serving at the request of the Company as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any expense, liability or loss, whether or not the Company would have the power to indemnify such Person against such expense, liability or loss under this Article 9.

9.7 Member Notification. To the extent required by law, any indemnification of or advance of expenses to a Manager or officer in accordance with this Article 9 shall be reported in writing to the Members with or before the notice, if any or waiver of notice of the next Members' meeting or with or before the next submission to Members of a consent to action without a meeting and, in any case, within the twelve (12) month period immediately following the date of the indemnification or advance.

9.8 Savings Clause. If this Article 9 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Manager, officer or any other Person indemnified pursuant to this Article 9 as to costs, charges and expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article 9 that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 Offset. Whenever the Company is to pay any sum to any Member, any amounts that Member owes the Company may be deducted from that sum before payment.

10.2 Notices. Except as expressly set forth to the contrary in this Agreement, all notices, requests or consents provided for or permitted to be given under this Agreement must be in writing and must be given either by depositing that writing in the United States mail, addressed to the recipient, postage paid and registered or certified with return receipt requested or by delivering that writing to the recipient in Person, by courier or by facsimile transmission. A notice, request or consent given under this Agreement is effective on receipt by the Person to receive it. All notices, requests and consents to be sent to a Member must be sent to or made at the address given for that Member on Exhibit A or such other address as that Member may specify by notice to the Company. Any notice, request or consent to the Company or the Manager must be given to the Manager at the address of the principal place of business of the Company set forth in accordance with Section 2.3. Whenever any notice is required to be given by law, the Certificate of Formation or this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

10.3 Entire Agreement; Supersedure. This Agreement constitutes the entire agreement of the Members relating to the Company and supersedes all prior contracts or agreements with respect to the Company, whether oral or written.

10.4 Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of his obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of his rights with respect to that default until the applicable statute-of-limitations period has run.

10.5 Amendment or Modification. Except as otherwise provided herein, this Agreement may be amended or modified from time to time only by a written instrument adopted by a majority of the Managers and executed and agreed to by the affirmative vote of a Majority Interest. Any amendment changing the Percentage Interests of the Members may only be approved by an affirmative vote of a Majority Interest.

10.6 Binding Effect. Subject to the restrictions on dispositions of all or any part of a Membership Interest set forth in this Agreement, this Agreement are binding on and inure to the benefit of the Members and their respective heirs, legal representatives, successors and assigns.

10.7 Governing Law; Severability. **THIS AGREEMENT, INCLUDING ALL MATTERS RELATED TO THEIR VALIDITY, ENFORCEABILITY, CONSTRUCTION, INTERPRETATION AND PERFORMANCE, ARE GOVERNED AND CONTROLLED BY THE LAWS OF THE STATE OF TEXAS, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THEREOF.** In the event of a direct conflict between the provisions of this Agreement and (a) any provision of the Certificate of Formation or (b) any mandatory provision of the Act, the applicable provisions of the Certificate of Formation or the Act shall control. If any provision of this Agreement or the application thereof to any Person or

circumstance is held invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other Persons or circumstances is not affected thereby and that provision shall be enforced to the greatest extent permitted by law or a provision that is legal, valid and enforceable shall be substituted therefor.

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

10.9 Waiver of Action for Dissolution or Partition. Each Member and Economic Interest Owner irrevocably waives any right it may have to maintain any action for dissolution of the Company or for partition of the property of the Company.

10.10 Indemnification. To the fullest extent permitted by law, each Member shall indemnify the Company, each Manager and officer and each other Member and hold them harmless from and against all losses, costs, liabilities, damages and expenses (including without limitation costs of suit and attorney's fees) they may incur on account of any breach by that Member of this Agreement.

10.11 Notice to Members of Provisions of this Agreement. By executing this Agreement, each Member acknowledges that it has actual notice of:

(a) all of the provisions of this Agreement, including without limitation, the restrictions on the transfer of Membership Interests set forth in Article 3; and

(b) all of the provisions of the Certificate of Formation (including without limitation the fact that the Certificate of Formation provides that no Member shall have the preemptive right to acquire any Membership Interests or securities of any class that may at any time be issued, sold or offered for sale by the Company). Each Member hereby agrees that this Agreement constitutes adequate notice of all such provisions, including without limitation, any notice requirement under the Act, and each Member hereby waives any requirement that any further notice thereunder be given.

10.12 Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations and other instruments necessary to comply with any laws, rules or Agreement.

10.13 Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

10.14 Headings. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

10.15 Rights and Remedies Cumulative. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy. Said rights and remedies are given in addition to any other legal rights the parties may have.

10.16 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

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

IN WITNESS WHEREOF, the parties have entered into this Limited Liability Agreement as of the day and year first written above.

MEMBERS:

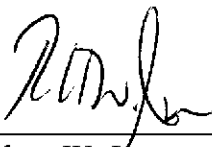
By: 
Robert W. James

Exhibit A

LIMITED LIABILITY COMPANY AGREEMENT
OF
CSD ENERGY ADVISORS, LLC

| <u>Member</u> | <u>Initial Capital Contributions</u> | <u>Percentage Interest</u> |
|-----------------|--|--------------------------------|
| Robert W. James | \$1,000.00 | 100.0% |

CSD ENERGY ADVISORS, LLC

Exhibit A-15 “Secretary of State”

Attached hereto is the Company’s registration with the Ohio Secretary of State.

201405600463

| | | | | | | | |
|------------|--------------|---|--------|--------|---------|------|------|
| DATE: | DOCUMENT ID | DESCRIPTION | FILING | EXPED | PENALTY | CERT | COPY |
| 02/25/2014 | 201405600463 | REG. OF FOR. PROFIT LIM. LIAB. CO. (LFP) | 125.00 | 100.00 | .00 | .00 | .00 |

Receipt

This is not a bill. Please do not remit payment.

C.T. CORPORATION SYSTEM
4400 EASTON COMMONS WAY
SUITE 125
COLUMBUS, OH 43219

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2271133

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

CSD ENERGY ADVISORS, LLC

and, that said business records show the filing and recording of:

Document(s)

REG. OF FOR. PROFIT LIM. LIAB. CO.

Document No(s):

201405600463

Effective Date: **02/24/2014**



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio
this 25th day of February, A.D. 2014.

Jon Husted

Ohio Secretary of State

CSD ENERGY ADVISORS, LLC

Exhibit B-1 “Jurisdictions of Operation”

CSD Energy Advisors, LLC is domiciled in the state of Texas and accordingly is registered to conduct business operations in the state of Texas. In addition, the Company is in the process of applying for registration or certification, if necessary, in those states in which the electricity markets are deregulated and within which power brokers are authorized to conduct broker activities.

CSD ENERGY ADVISORS, LLC

Exhibit B-2 “Experience & Plans”

The principal of CSD Energy Advisors, LLC has over 10 years experience in providing power brokerage services for customers in multiple jurisdictions. As a power broker, the brokers are responsible for the education of the customer as to their choices with respect to the electricity markets, and facilitate the procurement of power. Power contract opportunities will be bid out to those suppliers with whom the Company is contracted to do business and who is likewise authorized to operate in the state of Ohio.

As a result of this relationship, the power broker is not responsible for providing billing statements, which will be provided by the ultimate electricity provider. Since we do serve as a trusted advisor to the customers, we regularly assist the customer with any inquiries and/or complaints, and help them to contact the appropriate company (for instance, their electricity provider, the local utility/LDC/TDSP, or the appropriate agency within the state PUC). The Company has an (800) number set up (provided above) to assist the customer with any questions or concerns they may have with their service.

CSD ENERGY ADVISORS, LLC

Exhibit B-3 “Summary of Experience”

The principal of CSD Energy Advisors, LLC has over 10 years experience in providing power brokerage services for customers in multiple jurisdictions. We do not have any experience in aggregation services for customers. We have closed transactions with several hundred customers throughout the years, primarily commercial/industrial customers, ranging from small load businesses to large industrial plants.

CSD ENERGY ADVISORS, LLC

Exhibit B-4 “Disclosure of Liabilities and Investigations”

Neither the Company nor the principal have any existing, pending or post rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that has adversely impacted the Company’s financial or operational status or ability to provide the services it intends to provide once certified.

CSD ENERGY ADVISORS, LLC

Exhibit C-1 “Annual Reports”

CSD Energy Advisors, LLC is a newly formed entity, and therefore does not have a prior operating history to report. The Company was formed with the intention of engaging in power consulting and broker services in deregulated jurisdictions.

CSD ENERGY ADVISORS, LLC

Exhibit C-2 “SEC Filings”

CSD Energy Advisors, LLC is a closely-held company that is not required to file with the Securities and Exchange Commission.

CSD ENERGY ADVISORS, LLC

Exhibit C-3 "Financial Statements"

CSD Energy Advisors, LLC is a newly formed entity and does not have any operating history at this juncture. The Company was formed in the last 30 days (of the date of this filing) and is seeking authority to do business in those states in which it intends to provide power consulting and brokerage services. Therefore, there are no financial statements as of this date and no operating history to report.

CSD ENERGY ADVISORS, LLC

Exhibit C-4 “Financial Arrangements”

CSD Energy Advisors, LLC is not intending to conduct CRES as a business activity, and therefore has no requirement to obtain applicable financial arrangements.

CSD ENERGY ADVISORS, LLC

Exhibit C-5 “Forecasted Financial Statements”

CSD Energy Advisors, LLC is not intending to conduct CRES as a business activity, and therefore does not have to submit the forecasted financial statements.

CSD ENERGY ADVISORS, LLC

Exhibit C-6 "Credit Rating"

CSD Energy Advisors, LLC is a newly formed entity, and is closely held by the principal, Robert W. James. As such, the Company does not have a credit rating at this time.

CSD ENERGY ADVISORS, LLC

Exhibit C-7 “Credit Report”

CSD Energy Advisors, LLC is a newly formed entity, and is closely held by the principal, Robert W. James. As such, the Company does not have a credit report at this time.

CSD ENERGY ADVISORS, LLC

Exhibit C-8 “Bankruptcy Information”

Neither CSD Energy Advisors, LLC nor its principal, Robert W. James, have ever engaged in any reorganization, bankruptcy filings or other action to seek protection from creditors.

CSD ENERGY ADVISORS, LLC

Exhibit C-9 “Merger Information”

CSD Energy Advisors, LLC has not been involved in any dissolution or merger or acquisition within the last 5 years.