



SECOND AMENDED AND RESTATED LIMITED LIABILITY COMPANY OPERATING AGREEMENT

of

Pelorus Fund, LLC

A California Limited Liability Company

This Second Amended and Restated Limited Liability Company Operating Agreement (“Agreement”) of the PELORUS FUND, LLC (hereinafter referred to as the “Company” or “Fund”), a California limited liability company, is by and among Pelorus Management Group, LLC, a California limited liability company (the “Initial Member” or “Manager”), and each of the additional Person who becomes a Member in accordance with the provisions of this Agreement dated as of January 1, 2021. Any capitalized terms used herein but not defined herein shall have the meaning ascribed to them in the Private Placement Memorandum dated January 1, 2021 (the “Memorandum”).

RECITALS

WHEREAS, on March 25, 2010, the Company was formed as a limited liability company under the California Revised Uniform Limited Liability Company Act, Cal. Corp. Code §17701, *et seq.*, as amended from time to time;

WHEREAS, the Manager and Initial Members now desire to amend and restate the First Amended and Restated Limited Liability Company Operating Agreement dated April 1, 2020 (the “Original Agreement”), in its entirety by entering into this Second Amended and Restated Limited Liability Company Operating Agreement, which shall supersede and replace the Original Agreement;

WHEREAS, the parties intend by this Agreement and Memorandum to define their rights and obligations with respect to the Company’s governance and financial affairs and to adopt regulations and procedures for the conduct of the Company’s activities.

WHEREAS, in consideration of the premises and mutual covenants set forth herein and for good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the parties agree as follows:

ARTICLE 1: DEFINITIONS

1.1 **Scope.** For purposes of this Agreement, unless the language or context clearly indicates that a different meaning is intended; capitalized terms have the meanings specified in this Article.

1.2 Defined Terms.

(a) "Act" means the California Revised Uniform Limited Liability Company Act § 17701, *et seq.*, as amended from time to time.

(b) "Affiliate", with respect to a Person, means (1) a Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the subject Person, (2) a Person who owns or controls at least Ten Percent (10%) of the outstanding voting interests of the subject Person, (3) a Person who is an officer, director, manager or general partner of the subject Person, or (4) a Person who is an officer, director, manager, general partner, trustee or owns at least Ten Percent (10%) of the outstanding voting interests of a subject Person described in clauses (1) through (3) of this sentence.

(c) "Agreement" means this Operating Agreement, including any amendments.

(d) "Articles" means the Articles of Organization filed with the Secretary of State to organize the Company as a limited liability company, including any amendments.

(e) "Bankruptcy" means the filing of a petition seeking liquidation, reorganization, arrangement, readjustment, protection, relief or composition in any state or federal bankruptcy, insolvency, reorganization or receivership proceeding.

(f) "Capital Account" of a Member means the capital account maintained for such Member. The balance of the Capital Account of a Member, determined as set forth in Section 4.6 below, shall herein be referred to as the "Capital Account Balance."

(g) "Capital Investment" of a Member means a Member's original capital investment less any return of capital plus any additions to capital.

(h) "Code" means the Internal Revenue Code of 1986, as amended.

(i) "Contribution" means anything of value that a Member contributes to the Company as a prerequisite for, or in connection with, membership including any combination of cash, property, services rendered, a promissory note or any other obligation to contribute cash or property or render services.

(j) "Distribution" means the Company's direct or indirect transfer of money or other property to a Member with respect to a Membership Interest.

(k) "Dissociation" means a complete termination of a Member's membership in the Company due to an event described in Article 3 hereof.

(l) "Effective Date" means the effective date of this Agreement, as stated in the introductory section of this Agreement.

(m) "Entity" means an association, relationship or artificial person through or by means of which an enterprise or activity may be lawfully conducted, including, without limitation, a partnership, trust, limited liability company, corporation, joint venture, cooperative or association or an unincorporated association other than a nonprofit association.

(n) "Family," with respect to a Member, means individuals who are related to the Member by blood, marriage or adoption. For the purposes of this definition, an individual is related to the Member by marriage if the person is related by blood or adoption to the Member's current spouse.

(o) "Initial Member" or collectively, "Initial Members" means a person admitted as a Member of the Company prior to the Effective Date of this Agreement.

(p) "Manager" means a Person who is vested with authority to manage the Company in accordance with Article 5.

(q) "Member" means an Initial Member and any Person who is subsequently admitted as an additional or a substitute Member after the Effective Date, in accordance with Article 3.

(r) "Membership Interest" means a Member's percentage interest in the Company.

(s) "Memorandum" shall mean the Private Placement Memorandum of the Company, dated as of January 1, 2021.

(t) "Minimum Gain" means minimum gain as defined in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

(u) "Minimum Offering Amount" means the minimum sale of membership interests, pursuant to the Company's Offering, of One Hundred Thousand Dollars (\$100,000), as further described in the Memorandum.

(v) "Net Assets Under Management" means the total Company assets, including notes (at book value), real estate owned (at the lower of cost or fair market value), accounts receivable, advances made to protect loan security, unamortized organizational expenses, assets held by the Sub-REIT (as defined in the Memorandum), cash and any other Company assets valued at fair market value, less Fund liabilities. The Asset Management Fee will typically be paid on the last day of each calendar month with respect to Net Assets Under Management as of the first day of such month.

(w) "Net Profits" means the Company's monthly gross income less (1) the Fund's monthly liabilities and operating expenses (including administrative costs, legal and accounting fees) and (2) payment of the Asset Management Fee to the Manager and an allocation of income for a loss reserve.

(x) "Permitted Transferee", with respect to a Member, means another Member, a member of the Member's Family, or a trust for the benefit of the Member or a member of the Member's Family.

(y) "Person" means a natural person or an Entity.

(z) "Profit", as to a positive amount, and "Loss", as to a negative amount, mean, for a Taxable Year, the Company's income or loss for the Taxable Year, as determined in accordance with accounting principles appropriate to the Company's method of accounting and consistently applied.

(aa) "Regulations" means proposed, temporary or final regulations promulgated under the Code by the U.S. Department of the Treasury, as amended.

(bb) "Servicer" refers to the servicer of the Company loans.

(cc) "Subscription Agreement" means the Subscription Agreement attached as Exhibit B of the Memorandum.

(dd) "Taxable Year" means the Company's taxable year as determined in Article 6.

(ee) "Transfer," as a noun, means a transaction or event by which ownership of any Membership Interest is changed or encumbered, including, without limitation, a sale, exchange, abandonment, gift, pledge or foreclosure. "Transfer," as a verb, means to affect a Transfer.

(ff) "Transferee" means a Person who acquires any Membership Interest by Transfer from Member or another Transferee not admitted as a Member in accordance with Article 3.

ARTICLE 2: THE COMPANY

2.1 **Status.** The Company is a California Limited Liability Company organized under the Act.

2.2 **Name.** The Company's name is the PELORUS FUND, LLC.

2.3 **Term.** The Company's existence as a limited liability company will commence on the Effective Date and continue until dissolved herein pursuant to Article 7 below, unless sooner dissolved or terminated under the Act or as described herein.

2.4 **Purpose.** The purpose of the Company is to engage in any lawful act or activity for which a limited liability company may be organized under the Act; provided that, subject to the foregoing, the Company presently intends to raise money through the offering of Membership Interests (the "Offering") in order to: (1) to originate, make, purchase, otherwise acquire, manage and/or sell loans secured by interests in real or personal property, including properties operating in the cannabis industry, across the United States; and (2) acquire, manage, remodel, develop, lease, repair and/or sell real estate owned properties ("REO") throughout the United States. The REOs will be derived from the Company's lending activities. The Company shall pursue these endeavors in accordance with and pursuant to all applicable state, county and local laws and regulations.

2.5 **Principal Place of Business.** The Company's principal place of business and mailing is located at: 124 Tustin Ave. #200, Newport Beach, CA 92663. The Company may change its principal place of business at any time for any reason (or no reason).

2.6 **Registered Agent and Registered Office.** The Company's registered agent for service of process in the State of California is Geraci Legal Corporation, a California corporation, located at 90 Discovery, Irvine, California, 92618. The Company may change its registered agent or office at any time for any reason (or no reason).

ARTICLE 3: MEMBERSHIP

3.1 **Identification.**

(a) **Membership.** The Initial Members have been admitted to the Company prior to the Effective Date of this Agreement. The Manager may choose to invest capital into the Company. Nothing contained herein shall be deemed to prohibit the Manager from increasing its interest in the Company on the same basis as any other person.

(b) Additional and Substitute Members. The Company may admit additional or substitute Members with the sole approval of the Manager. Except as set forth herein, the Manager may withhold approval of the admission of any Person for any or no reason. The Manager will not permit any person to become a member until such person has agreed to be bound by all the provisions of this Operating Agreement as amended as of the date of the proposed admission, and the terms of the Memorandum, and has delivered to the Company a completed Subscription Agreement along with a check in the amount of such investment.

(c) Rights of Additional or Substitute Members. A Person admitted as an additional or substitute Member has all the rights and powers, and is subject to all the restrictions and obligations of a Member under this Agreement and the Act.

3.2 Withdrawal. Members who invest in the Company may not withdraw their capital until they have been members of the Company for at least Twelve (12) months. Members who have been members of the Company for a period longer than Twelve (12) months may request withdrawal from the Company in writing and give the Company at least Thirty (30) days' written notice prior to expecting to be withdrawn from the Company. The effective date of withdrawal shall be Thirty (30) days after the date of receipt of the Member's written withdrawal request. The Company will use its best efforts to return capital subject to, among other things, the Company's then cash flow, financial condition, and prospective transactions.

Notwithstanding any of the withdrawal restrictions described herein, the Manager reserves the right to return part or all of the Member's capital investment to the Member, at its sole and absolute discretion, at any time during the investment for any reason, including without limitation, if the Manager suspects the Member has violated federal or state law, rules, and regulations or the Member is under investigation by federal, state, and/or local authorities.

The Manager is not under any circumstances obligated to liquidate any assets, properties or loans to accommodate or facilitate any Member(s)' request for withdrawal or redemption from the Company. Following the effective date of a Member's withdrawal, the return of capital will be limited to Eight and 8.333% of such Member's capital account balance per month such that it will take at least Twelve (12) months for a Member to withdraw his, her, or its total investment in the Fund; provided, however, that the maximum aggregate amount of capital that the Company will return to the Members, as follows: (1) up to Two Percent (2%) per month of the Fund's Assets Under Management; (2) up to Five Percent (5%) per quarter of such Assets Under Management; and (3) up to Twenty Percent (20%) per fiscal year of the Assets Under Management of the Company.

Withdrawal requests will be processed by the Company on a first-come, first-served basis. Notwithstanding the foregoing, the Manager may, in its sole and absolute discretion, waive or modify such withdrawal requirements or withdrawal prioritization, at any time for any reason (or no reason), including, if a Member is experiencing undue hardship. Acceptability of the Member's hardship will be determined by the Manager in its sole and absolute discretion.

Members who wish to withdraw before they have been Members for Twelve (12) months ("Early Withdrawal") can only withdraw if the Member produces evidence of undue hardship, and the Manager permits Early Withdrawal, in its sole and absolute discretion. Acceptability of a Member's hardship will be determined by the Manager, in its sole and absolute discretion. Members who request Early Withdrawal will be subject to a penalty of Five Percent (5%) of the Member's withdrawal proceeds. The Manager may, at its sole discretion, waive an Early Withdrawal penalty.

The Manager may at any time suspend the withdrawal of funds from the Company, upon the occurrence of any of the following circumstances: (i) whenever, as a result of events, conditions or circumstances beyond the control or responsibility of the Manager or the Company, disposal of the assets of the Company is not reasonably practicable without being detrimental to the interests of the Company or its Members, determined in the sole and absolute discretion of the Manager; (ii) it is not reasonably practicable to determine the net asset value of the Company on an accurate and timely basis; or (iii) if the Manager has determined to dissolve the Company. Notice of any suspension will be given within Ten (10) business days from the time the decision was made to suspend distributions to any Member who has submitted a withdrawal request and to whom full payment of the redemption proceeds has not yet been remitted. If a redemption request is not rescinded by a Member following notification of a suspension, the redemption will be effective within Ninety (90) days from the date the suspension is lifted, on the basis of the net asset value of the Company at that time and in the order determined by the Manager in its sole and absolute discretion.

Members who submit a request for withdrawal or redemption from the Company shall, subject to the sole and absolute discretion of the Manager, pay the Manager a request/withdrawal fee of at least Five Hundred Dollars (\$500) to cover administrative costs related thereto upon withdrawal or redemption from the Company.

3.3 **Restrictions on Transfer.**

(a) Restrictions on Transfer. A Member may Transfer his, her or its Membership Interest only in compliance with this Article. Restrictions have been placed upon the ability of Members to resell or otherwise dispose of any Membership interests purchased hereunder including, without limitation, the following:

(1) The Membership Interests have not been registered with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Act"), in reliance upon the exemptions provided for under Section 4(2) and Regulation D thereunder.

(2) There is no public market for the Membership Interests and none is expected to develop in the future. Even if a potential buyer could be found, Membership Interests may not be resold or transferred without satisfying certain conditions designed to comply with applicable tax and securities laws, including, without limitation, provisions of the Act, Rule 144 thereunder, and the requirement that certain legal opinions be provided to the Manager with respect to such matters. A transferee must meet the same investor qualifications as the Members admitted during the Offering Period. Any potential buyer must be capable of bearing the economic risks of this investment with the understanding that Membership Interests may not be liquidated by resale or redemption and should expect to hold their Membership Interests as a long-term investment.

(3) A legend will be placed upon all instruments evidencing ownership of Membership Interests in the Company stating that the Membership Interests have not been registered under the Securities Act of 1933, as amended, and set forth the foregoing limitations on resale. Notations regarding these limitations shall be made in the appropriate records of the Company with respect to all Membership Interests offered hereby. Any Member who transfers, upon the Manager's consent, any Membership Interests to another Person shall, subject to the sole and absolute discretion of the Manager, pay the Manager a transfer fee of at least Five Hundred Dollars (\$500) to cover administrative costs related thereto. If a Member transfers Membership Interests to more than one person, except transferees who will hold title together, the transfer to each person will be considered a separate transfer.

(b) Null and Void. An attempted Transfer of all or a portion of a Membership Interest that is not in compliance with this Article will be null and void. No Membership Interest may be transferred if, in the judgment of the Manager, a transfer would jeopardize the availability of exemptions from the registration requirements of federal securities laws, jeopardize the tax status of the Company as a limited liability company or, cause a termination of the Company for federal income tax purposes.

(c) Permitted Transfers. A Member may at any time Transfer one or more Membership Interests to a Permitted Transferee if, as of the date the Transfer takes effect, the Company is reasonably satisfied that all of the following conditions are met:

- (1) the conditions listed above have been met;
- (2) the Transferee is a person with the same qualifications as the original Member;
- (3) the Transfer, alone or in combination with other Transfers, will not result in the Company's termination for federal income tax purposes;
- (4) the Transfer is the subject of an effective registration under, or exempt from the registration requirements of, applicable state and federal securities laws;
- (5) the Company receives from the Transferee the information and agreements reasonably required to permit it to file federal and state income tax returns and reports; and
- (6) the Manager receives payment from the Transferee of a transfer fee of Five Hundred Dollars (\$500) for each Transferee.

(d) Transferor's Membership Status. If a Member Transfers less than all of his, her, or its Membership Interest, the Member's rights with respect to the transferred portion of the Membership Interest, including the right to vote or otherwise participate in the Company's governance and the right to receive Distributions, will terminate as of the effective date of the Transfer. However, the Member will remain liable for any obligation with respect to the transferred portion that existed prior to the effective date of the Transfer, including any costs or damages resulting from the Member's breach of this Agreement. If the Member Transfers all of his, her or its Membership Interest, the Transfer will constitute an event of Dissociation.

(e) Transferee's Status.

(1) Admission as a Member. A Member who Transfers one or more Membership Interests has no power to confer on the Transferee the status of a Member. A Transferee may be admitted as a Member only in accordance with the provisions of this Article. A Transferee who wishes to become a Member must make application in writing to the Company and provide evidence, as requested by the Company, of compliance with all conditions to admission, as set forth above. Prior to admission, each proposed member must execute and deliver a counterpart of this Agreement, as amended to date, or a separate written agreement to be bound hereby. The Company shall not without cause refuse the application for membership of a Transferee who has complied with all the provisions of this Agreement.

(2) Rights of Non-Member Transferee. A Transferee who is not admitted as a Member in accordance with the provisions of this Article: (i) has no right to vote or otherwise participate in the Company's governance; (ii) is not entitled to receive information concerning the Company's affairs or inspect the Company's books and records; (iii) with respect to the transferred Membership Interests, is

entitled to receive the Distributions to which the Member would have been entitled had the Transfer not occurred; and (iv) is subject to the restrictions imposed by this Article to the same extent as a Member. Any provision of the Agreement permitting or requiring the Members to take action by vote or written approval of a specified percentage of the Membership Interests shall be deemed to mean only Membership Interests then owned by Members.

3.4 **Expulsion of a Member.** At any time there are more than Two (2) Members, the Company may expel a Member, but only for cause. Cause for expulsion exists if the Member has materially breached this Agreement, is unable to perform the Member's material obligations under this Agreement, or if the Manager suspects the Member has violated federal or state law, rules, and regulations or the Member is under investigation by the federal, state, and/or local authorities, subject to the sole and absolute discretion and notwithstanding any of the withdrawal restrictions described herein. If a Member is expelled, that Member forfeits any and all rights to any accrued distribution during the interim quarter whether or not the withdrawal is partial or total. A Member's expulsion from the Company will be effective upon the Member's receipt of written notice of the expulsion.

3.5 **Return of Capital.** Subject to the terms contained herein, the Company may return all or a portion of a Member's capital at the Manager's discretion at any time for any reason, including without limitation, if the Manager suspects the Member has violated federal or state law, rules, and regulations or the Member is under investigation by federal, state, and/or local authorities. Any such return of capital would not be considered a Distribution and would not be included in the determination of such Member's return on investment. However, any such return of capital would reduce the Member's Membership Interest in the Company. Thus, if Manager elects to return all of Member's capital, Member shall no longer be a Member in the Company and the Member would be considered to have withdrawn or to have elected redemption from the Company.

3.6 **Upon Dissociation.** Dissociation from the Company occurs upon a Member's expulsion, transfer or redemption of all of the Member's Units, withdrawal or resignation (an "Event of Dissociation"). Upon the occurrence of an Event of Dissociation: (1) the Member's right to participate in the Company's governance, receive information concerning the Company's affairs and inspect the Company's books and records will terminate; and (2) unless the Dissociation resulted from the Transfer of the Member's Membership Interests, the Member will be entitled to receive the Distributions to which the Member would have been entitled as of the effective date of the Dissociation had the Dissociation not occurred. The Member will remain liable for any obligation to the Company that existed prior to the effective date of the Dissociation, including any costs or damages resulting from the Member's breach of this Agreement. Under most circumstances, the Member will have no right to any return of his or her capital prior to the termination of the Company unless the Manager elects to return capital to a Member. The effect of such Dissociation on the remaining Members who do not sell will be to increase their percentage share of the remaining assets of the Company, and thus their proportionate share of its future earnings, losses and Distributions. The reduction in the outstanding Membership Interests will also increase the relative voting power of remaining Members.

3.7 **Verification of Membership Interests.** Within Thirty (30) days after receipt of a Member's written request, the Company will provide such Member with a statement evidencing his, her, or its Membership Interest in the Company.

3.8 **Manner of Action by Members.**

(a) Meetings.

(1) Right to Call. The Manager, or any combination of Members holding in the aggregate more than Twenty-Five Percent (25%) of the Membership Interest, may call a meeting of Members by giving written notice to all Members not less than Thirty (30), or more than Sixty (60) days prior to the date of the meeting. The notice must specify the date, time and place of the meeting and the nature of any business to be transacted. A Member may waive notice of a meeting of Members orally, in writing, or by attendance at the meeting.

(2) Time and Place. Unless otherwise specified in the notice of meeting, all meetings shall be held at 2:00 p.m. on a regular business day of the Company, at the Company's principal place of business. No meeting may be held on a Sunday or legal holiday; at a time that is before 7:30 a.m. or after 9:00 p.m.; or at a place more than Sixty (60) miles from the Company's principal place of business.

(3) Proxy Voting. A Member may act at a meeting of Members through a Person authorized by signed proxy.

(4) Quorum. Members whose aggregate holdings exceed a majority of the outstanding Membership Interests will constitute a quorum at a meeting of Members. No action may be taken in the absence of a quorum.

(5) Required Vote. Except with respect to matters for which a greater minimum vote is required by the Act or this Agreement, the vote of Members present whose aggregate holdings exceed a majority of the outstanding Membership Interests will constitute the act of the Members at a meeting of Members.

(b) Written Consent. The Members may act without a meeting by written consent describing the action and signed by Members whose aggregate holdings of the Membership Interest equal or exceed the minimum that would be necessary to take the action at a meeting at which all Members were present.

3.9 Limitation on Individual Authority. A Member who is not also the Manager has no authority to bind the Company. A Member whose unauthorized act obligates the Company to a third party will indemnify the Company for any costs or damages the Company incurs as a result of the unauthorized act.

3.10 Negation of Fiduciary Duties. A Member who is not also the Manager owes no fiduciary duties to the Company or to the other Members solely by reason of being a Member.

ARTICLE 4: FINANCE

4.1 Contributions.

(a) Initial Member. The Initial Members have been admitted to the Company prior to the Effective Date of this Agreement. Nothing contained herein shall be deemed to prohibit the Manager from increasing or decreasing its interest in the Company on the same basis as any other person or entity.

(b) Additional Members. The Company may admit additional or substitute Members with the sole approval of the Manager. Except as set forth herein, the Manager may withhold approval of the admission of any Person for any or no reason. The Manager will not permit any person to become a member until such person has agreed to be bound by all the provisions of this Agreement as amended as of the date of the proposed admission, and the terms of the Memorandum, and has delivered to the Company a completed Subscription Agreement along with a check in the amount of such investment. Any additional

Members' subscription funds will be released to the Company and Membership Interests will be issued to such Members.

(c) Additional Contributions. The Company may authorize additional Contributions at such times and on such terms and conditions as it determines to be in its best interest. Absent the Company's authorization, no Member is permitted to make additional Contributions.

(d) Contributions Not Interest Bearing. A Member is not entitled to interest or other compensation with respect to any cash or property the Member contributes to the Company.

4.2 **Allocation of Profit and Loss.** After giving effect to special allocations, if any, the Company's Profit or Loss for a Taxable Year, including the Taxable Year in which the Company is dissolved, will be allocated among the Members in proportion to their Capital Account Balances during the applicable tax reporting period.

4.3 **Tax Allocations.** For federal income tax purposes, unless the Code otherwise requires, each item of the Company's income, gain, loss or deduction will be allocated to the Members in proportion to their allocations of the Company's Profit or Loss.

4.4 **Distributions.**

(a) Distribution of Net Profits. Following the first full quarter after the Minimum Offering Amount is raised through the Company's Offering, Net Profits shall be distributed to Members on a monthly basis (and pro-rated within any month that a Member was a member of the Company for only part of the month) as follows: One Hundred Percent (100%) of the Net Profits of the Fund shall be distributed to the Members. No Net Profits shall be distributed to the Manager. All cash distributions will be made on a monthly basis, in arrears. Net Profits distributions shall begin at the end of the first full month after the Minimum Offering Amount is raised by the Company. Net Profits shall be distributed after all expenses and fees are paid to the Manager, and to the extent cash is available and distributions will not impact the continuing operation of the Company, subject to the sole and absolute discretion of the Manager.

(b) Each Member has the option of receiving cash distributions for his, her or its share of the earnings of the Company that is payable to the Member or having such amount(s) credited to his, her or its Capital Account and reinvested in the Company to increase such Member's Membership Interest. However, notwithstanding the foregoing, the Manager reserves the right to commence making cash distributions at any time to any Member(s) in order for the Company to remain exempt from the ERISA plan asset regulations.

(d) By the end of the Company's fiscal year, the Manager will make every effort to have distributed to each Member the amount of Profit or Loss that will be allocated to that Member on the Schedule K-1 that he, she, or it receives for income tax reporting. However, the amount of income reported to each Member on his, her, or its Schedule K-1 may differ somewhat from the actual cash Distributions made during the fiscal year covered by the Schedule K-1 due to, among other things the loan loss reserve and factors unique to the tax accounting of limited liability companies, such as the treatment of investment expense.

4.5 **Reinvestment Election.** Members must elect to (a) receive cash with respect to the monthly income distributions from the Company in the amount of that Member's share of cash available for distribution, or (b) allow the reinvestment through purchase of additional Membership Interests with respect to the monthly income distributions from the Company in the amount of that Member's share of cash available for distribution. Members must elect to receive cash or reinvest all of their monthly income

distributions. No partial reinvestment is permitted. If no election is made, then the monthly distribution will be a cash disbursement.

An election to reinvest the monthly distributions revocable at any time upon a written request to revoke such election. Members may change their election at any time upon Thirty (30) days written notice to the Company. Upon receipt and after the Thirty (30) day notice has occurred, the Member's election shall be changed and reflected on the following first day of the month in which the Member is entitled to receive a distribution. Notwithstanding the foregoing, the Manager reserves the right to commence making cash distributions (in lieu of allowing reinvestment) at any time to any Member(s) in order for the Company to remain exempt from the ERISA plan asset regulations.

4.6 **Capital Accounts.**

(a) General Maintenance. The Company will establish and maintain a Capital Account for each Member. A Member's Capital Account Balance will be:

(1) increased by: (i) the amount of any money the Member contributes to the Company's capital; and (ii) the Member's share of the Company's Profits and any separately stated items of income or gain; and

(2) decreased by: (i) the amount of any money the Company distributes to the Member; and (ii) the Member's share of the Company's Losses and any separately stated items of deduction or loss.

(b) Transfer of Capital Account. A Transferee of Membership Interests succeeds to the portion of the transferor's Capital Account that corresponds to the portion of the Membership Interest that is the subject of the Transfer.

(c) Compliance with Code. The requirements of this Article are intended and will be construed to ensure that the allocations of the Company's income, gain, losses, deductions and credits have substantial economic effect under the Regulations promulgated under Section 704(b) of the Code.

ARTICLE 5: MANAGEMENT

5.1 **Representative Management.** The Company will be managed by One (1) Manager. By execution of this Agreement, and without prejudice to the right of the Members to remove the Manager as set forth in Article 5, the Initial Members and each Person hereafter admitted as a Member, other than Transferees, shall be deemed to have elected such Manager. The initial manager of the Company shall be: Pelorus Management Group, LLC, a California limited liability company.

5.2 **Time Devoted to Business.** The Manager will devote to the Company's activities the amount of time reasonably necessary to discharge the Manager's responsibilities.

5.3 **Powers and Authority.**

(a) General Scope. Except for matters on which the Members' approval is required by the Act or this Agreement, the Manager has full power, authority and discretion to manage and direct the Company's business, affairs and properties, including, without limitation, the specific powers referred to in paragraph (b), below.

(b) Specific Powers.

(1) The Manager is authorized on the Company's behalf to make all decisions as to (i) the development, sale, lease or other disposition of the Company's assets; (ii) the origination and purchase of loans or any other assets of all kinds; (iii) the acquisition, purchase, leasing, and/or sale of properties or any other assets of all kinds; (iv) the management of all or any part of the Company's assets and business; (v) the borrowing of money and the granting of security interests in the Company's assets (including loans from Members) as, and only if, provided for in the Memorandum; (vi) the prepayment, refinancing or extension of any mortgage affecting the Company's assets; (vii) the compromise or release of any of the Company's claims or debts; (viii) the employment of Persons for the operation and management of the Company's business; and (ix) all elections available to the Company under any federal or state tax law or regulation.

(2) The Manager on the Company's behalf may execute and deliver (i) all contracts, conveyances, assignments, leases, subleases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (ii) all checks, drafts and other orders for the payment of the Company's funds; (iii) all loan documents including, without limitation, promissory notes, mortgages, deeds of trust, security agreements and other similar documents; (iv) all articles, certificates and reports pertaining to the Company's organization, qualification and dissolution; (v) all tax returns and reports; and (vi) all other instruments of any kind or character relating to the Company's affairs.

5.4 Required Member Approval. Except as specifically provided herein, without the approval of the Members holding a majority of the issued and outstanding Membership Interests, the Company may not take any action with respect to: (a) the Company's merger with or conversion into another Entity; (b) causing the Company to incur debt which would exceed the amount provided for in the Memorandum; or (c) a transaction, not expressly permitted by this Agreement or Memorandum, involving a conflict of interest between the Manager and the Company.

5.5 Duties of Manager.

(a) Fiduciary Duty. The Manager shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the Company, whether or not in the Manager's possession or control. Except as expressly permitted herein, or by subsequent approval of the Members, the Manager shall not employ, or permit another to employ Company funds or assets in any manner except for the exclusive benefit of the Company.

(b) Standard of Care.

(1) Exculpation. The Manager will not be liable to the Company or any Member for an act or omission done in good faith to promote the Company's best interests, unless the act or omission constitutes gross negligence, fraud, bad faith, intentional misconduct, or a knowing violation of law.

(2) Justifiable Reliance. The Manager may rely on the Company's records maintained in good faith and on information, opinions, reports or statements received from any Person pertaining to matters the Manager reasonably believes to be within the Person's expertise or competence.

(c) Competing Activities. The Manager may participate in any business or activity without accounting to the Company or the Members. Each Member waives the benefit of the corporate opportunity doctrine, on his or her own behalf and on behalf of the Company, and agrees that the Manager

may deal in other real estate transactions for its own account and/or for the accounts of others without any requirement to account to the Company for such dealings.

(d) Self-Dealing. In addition to the transactions expressly permitted by this Agreement, the Manager may enter into business transactions with the Company if the terms of the transaction are no less favorable to the Company than those of a similar transaction with an independent third party, including without limitation selling loans to, and buying loans from, the Company.

(e) Specific Transactions. Without limiting the generality of the foregoing, it is hereby acknowledged and agreed that the Manager shall be permitted to bargain for and accept the following transactions connected with the business of the Company, subject to the terms of any other agreement among the Members.

(1) Loan Origination Fees and Lender Discount Points. Loan origination fees and lender discount points are generally collected from borrowers by the Manager on behalf of the Company. Loan origination fees and lender discount points will be shared between the Manager (or an Affiliate) and the Company, as further outlined below. Loan origination fees consist of loan processing fees, underwriting fees, document preparation fees, escrow fees, disbursement fees, warehousing fees, administration fees and other similar charges.

(2) Loan Servicing. The Manager shall retain the services of a third party to serve as loan servicer for the Company's loans. To the extent applicable, the Manager will oversee the activities and performance of the Servicer. Notwithstanding the foregoing, the Manager reserves the right to serve as Loan servicer, or have an Affiliate service the loans, at its sole and absolute discretion at any time for any reason (or no reason).

(3) Purchase of Existing Loans. When the Company purchases an existing loan (or pool of loans) from a third party, the Manager or Affiliate will be paid a fee comparable to a loan origination fee.

(4) Loan Extension and Modification Fees. Loan extension and modification fees are collected by the Manager from borrowers on behalf of the Company and will be shared between the Company and Manager, as described in Section 5.7 below.

(5) Exit Fees. Loan exit fees collected by the Manager from borrowers on behalf of the Company will be shared between the Company and Manager, as described in Section 5.7 below.

(6) Loan Processing, Loan Documentation, and Other Similar Fees. Loan processing, documentation and other similar fees are collected from the borrower and payable to the Manager at prevailing industry rates as part of the Manager's compensation.

(7) Late Fees and Prepayment Penalties. Any late fees, late charges, and prepayment penalties paid by borrowers on account of loans will be shared between the Company and the Manager, as described in Section 5.7 below.

(8) Other Loan Fees. All other fees paid by borrowers on account of loans will be collected by the Manager on behalf of the Company. These fees will be shared between the Manager and the Company, as further described in Section 5.7 below. These fees may include, without limitation, the following: all forbearance fees, collection fees, default interest, and all other similarly related fees incurred by borrowers (including, but not limited to, other fees authorized by loan documents for work performed regarding the subject loan).

(9) Equity Participation Loans. The Company may also make loans where it agrees to participate in the equity of the property securing the loan made by the Company. Such equity participation may include, but is not limited to, sharing in the proceeds from the sale price of the property or properties securing the loan, or including additional exit fees upon loan repayment. One Hundred Percent (100%) of the fees derived from equity participation loans shall be payable to the Manager. Any proceeds and gains derived from equity participation loans shall be shared between the Fund and Manager, as further described in Section 5.7 below.

(10) Real Estate Commissions. In the event the Company acquires ownership of any real property, whether by foreclosure or otherwise, and the Manager decides to sell it, the Manager or its Affiliates shall be allowed to broker the sale and receive a commission from the Company, or hire a broker to sell the property and receive such portion of the real estate commission paid to such broker. The Manager may also bargain for and accept finder's fees, in lieu of a share of commission, from listing or selling real estate brokers.

(11) Sale of Real Property to Affiliates. In selling or otherwise disposing of real property owned by the Company, the Manager may sell the same to one or more of its Affiliates, or to other organizations in which Manager or its Affiliates have an interest, provided the price and terms of such sale are at least as advantageous as the Company could otherwise have obtained.

(12) Property Management. If the Company acquires property, the Manager or an Affiliate will manage the property, or the Manager will hire a third-party management company to do so.

(13) Reimbursement of Business Expenses. The Manager may be reimbursed by the Company for the Company's operating and administrative expenses, provided, however, the amount of such reimbursement shall not exceed One-Half of One Percent (0.5%) per annum of the Company's aggregate capital. This operating expense reimbursement fee will be calculated as of the first day of the month with regards to the aggregate capital in the Company as of that day and paid out as of the first day of the following month. Notwithstanding the foregoing, the Manager may waive or defer reimbursement of operating and administrative expenses at its sole and absolute discretion. If the Manager defers or assigns to the Company any of its respective reimbursement, the Manager shall only be entitled to recover the same at a later time if it is within the same calendar year.

5.6 Indemnification of Manager. Except as limited by law, the Company shall indemnify the Manager for all expenses (including, without limitation, legal fees and costs), losses, liabilities and damages the Manager actually and reasonably incurs in connection with the defense or settlement of any action arising out of or relating to the conduct of the Company's activities, except an action with respect to which the Manager is adjudged to be liable for fraud, bad faith, willful misconduct, and/or breach of a fiduciary duty owed to the Company or the Members under the Act or this Agreement. Therefore, Members may have a more limited right of action than they would have absent these provisions in the Operating Agreement. The Company shall advance the costs and expenses of defending actions against the Manager arising out of or relating to the management of the Company, provided it first receives the written undertaking of the Manager to reimburse the Company if ultimately found not to be entitled to indemnification. A successful indemnification of the Manager or any litigation that may arise in connection with the Manager's indemnification could deplete the assets of the Company. Members who believe the Manager has engaged in conduct resulting in fraud, willful misconduct, bad faith, or breach of the Manager's fiduciary duty, should consult with their own legal counsel.

5.7 Compensation to Manager and Affiliates. The Company will compensate the Manager as follows for services rendered to or on behalf of the Company:

(a) Asset Management Fee. The Manager shall earn an annual asset management fee (“Asset Management Fee”) of One Percent (1%) of Net Assets Under Management, calculated and payable on a monthly basis. The Asset Management Fee will typically be paid on the last day of each calendar month with respect to Net Assets Under Management as of the first day of such month.

(b) Loan Origination Fees and Lender Discount Points. Seventy-Five Percent (75%) of loan origination fees and lender discount points shall be payable to the Manager (or an Affiliate of the Manager, including without limitation, Pelorus Equity Group, Inc., a California corporation) and Twenty-Five Percent (25%) shall be payable to the Fund.

(c) Equity Participation Loans. One Hundred Percent (100%) of the fees derived from equity participation loans shall be payable to the Manager. Any proceeds and gains derived from equity participation Loans shall be shared between the Fund and Manager or as follows: Fifty Percent (50%) of proceeds shall be payable to the Manager and Fifty Percent (50%) shall be payable to the Company.

(d) Acquisition Fees. Acquisition fees of Two Percent to Four Percent (2% to 4%) of the value of loans acquired by the Company may be payable by the Company, on a case-by-case basis, to the Manager. Such acquisition fees are considered part of the Manager’s compensation.

(e) Loan Extension and Modification Fees. Loan extension and modification fees collected from borrowers shall be shared between the Manager and the Company as follows: Twenty-Five Percent (25%) of loan extension and modification fees shall be payable to the Manager and Seventy-Five Percent (75%) shall be payable to the Company.

(f) Exit Fees. Any loan exit fees collected from borrowers by the Manager on behalf of the Fund shall be shared between the Manager and the Fund as follows: Twenty-Five Percent (25%) of Loan exit fees shall be payable to the Manager and Seventy-Five Percent (75%) shall be payable to the Fund. Such fees will be based on the prevailing market rate at the time such fees are charged to the borrowers.

(g) Purchase of Existing Loans. When the Company purchases an existing loan (or pool of loans) from a third party, the Manager or Affiliate will be paid a fee comparable to a loan origination fee.

(h) Loan Processing, Loan Documentation, and other Similar Fees. Loan processing fees, document preparation fees and other similar fees collected from the borrower shall be payable to the Manager at prevailing industry rates as part of the Manager’s compensation.

(i) Late Fees and Prepayment Penalties. Any late fees, late charges, and prepayment penalties paid by borrowers on account of loans will be shared between the Company and the Manager as follows: Fifty Percent (50%) of all late fees, late charges, and prepayment penalties shall be payable to the Company and Fifty Percent (50%) shall be payable to the Manager.

(j) Other Loan Fees. All other fees paid by borrowers on account of loans will be shared between the Company and the Manager as follows: Fifty Percent (50%) of all other fees shall be payable to the Manager and Fifty Percent (50%) shall be payable to the Company. These fees include, without limitation, all forbearance fees, collection fees, default interest, and all other similarly related fees incurred by borrowers (including, but not limited to, other fees authorized by loan documents for work performed regarding the subject loan). Notwithstanding the foregoing, some of the aforementioned fees may be payable or assignable to the Servicer (and not the Company).

(k) Loan Servicing Fee. Any loan servicing fees payable to the Servicer shall be calculated as an expense to the Company. At any time, at the sole and absolute discretion of the Manager, in an effort to maintain an effective cost structure or for any other reason (or no reason), the Manager may decide to service the loans at such time as conditions warrant. While the Manager shall not receive a loan servicing fee, it shall be reimbursed for any costs and expenses incurred as a result of servicing the loans.

(l) Real Estate Commissions. Additional sources of income to the Company will be from the potential purchase, remodeling, development, and resale of Company owned properties. Real estate commissions to list and sell real estate that the Company has acquired shall be shared between the Company and the Manager as follows: Fifty Percent (50%) of real estate commissions shall be retained by the Company and Fifty Percent (50%) shall be payable to the Manager. Notwithstanding the foregoing, the Manager may also hire a broker to sell the property and receive a portion of the commission paid to such broker in consideration for assisting the broker with the marketing process. In either case, the total commission paid by the Company shall not exceed the lesser of Six Percent (6%), or the rate then prevailing in the area where the property is located

(m) Property Rentals. The Company may lease a portion of the properties it acquires and will earn income derived from the lease payments made by tenants on a monthly basis. Profits from the lease of any properties held by the Company shall be shared between the Manager and the Company as follows: Fifty Percent (50%) shall be retained by the Company and Fifty Percent (50%) shall be payable to the Manager.

(n) Property Management Fee. A monthly property management fee shall generally be computed as a specified numerical percentage (which percentage shall be set by the Manager on a case-by-case basis for each subject property) multiplied by monthly gross rents for the property. Generally, the Manager expects to receive a property management fee between Four Percent and Ten Percent (4-10%). Notwithstanding the foregoing, the Company may retain the services of a third-party property manager. Any fees charged by such third-party property manager shall be considered an expense to the Company.

(o) Reimbursement. The Manager shall be entitled to recoup any costs it suffers in connection with investing in assets on behalf of the Company. The Manager may be reimbursed by the Company for the Company's operating and administrative expenses, provided, however, the amount of such reimbursement shall not exceed One-Half of One Percent (0.5%) per annum of the Company's aggregate capital. This operating expense reimbursement fee will be calculated as of the first day of the month with regards to the aggregate capital in the Company as of that day and paid out as of the first day of the following month. At the Manager's discretion, the Manager may also be reimbursed for all of the Company's administrative and/or operating expenses paid by the Manager. Notwithstanding the foregoing, the Manager may waive or defer reimbursement of operating and administrative expenses at its sole and absolute discretion. If the Manager defers or assigns to the Company any of its respective reimbursement, the Manager shall only be entitled to recover the same at a later time if it is within the same calendar year.

(i) The Company will bear the cost of the annual tax preparation of the Company's tax returns, any state and federal income tax due, and any required independent audit reports required by agencies governing the business activities of the Company.

(j) The definition of Manager's Fees includes all of the fees described in "Compensation to Manager and Affiliates".

(k) The Manager may, but has no obligation to, defer all or a portion of the Manager's Fees. In such event, the Manager will be entitled to recover the deferred fees at a later time.

5.8 **Tenure.**

(a) **Term.** The Manager will serve until the earlier of (1) the Manager's resignation; (2) the Manager's removal; (3) the Manager's Bankruptcy; (4) as to a Manager who is a natural person, the Manager's death or adjudication of incompetency; and (5) as to a Manager that is an Entity, the Manager's dissolution. In any such event, a majority of the Members, shall promptly elect a successor as Manager; provided, however if the then Manager desires to appoint an Affiliate as the new Manager, then such Affiliate shall become the Manager without Member approval.

(b) **Resignation.** The Manager at any time may resign by written notice delivered to the Members at least Thirty (30) days prior to the effective date of the resignation.

(c) **Removal.** The Members may remove the Manager if: (1) the Manager is convicted or found liable for an act of gross negligence or fraud which materially lowers the net asset value of the Company, or (2) the holders of at least a majority of the outstanding Membership Interests vote in favor of such removal. A successor manager of the Company may only be elected by the Members, provided that if the then-current Manager appoints an Affiliate as the successor Manager then no vote or consent of the Members shall be required unless expressly mandated by applicable California law.

ARTICLE 6: RECORDS AND ACCOUNTING

6.1 **Maintenance of Records.**

(a) **Required Records.** The Company will maintain, at its registered office in California, such books, records and other materials as are reasonably necessary to document and account for its activities, including without limitation, those required to be maintained by the Act.

(b) **Member Access.** A Member and the Member's authorized representative will have reasonable access to, and may inspect and copy, all books, records and other materials pertaining to the Company or its activities so long as it does not violate another member's right to privacy or confidentiality. The exercise of such rights will be at the requesting Member's expense.

(c) **Confidentiality.** No Member or Manager will disclose any information relating to the Company or its activities to any unauthorized person or use any such information for his or her or any other Person's personal gain.

6.2 **Financial Accounting.**

(a) **Accounting Method.** The Company will account for its financial transactions using the accrual basis method of accounting. The Manager reserves the right to change such methods of accounting upon written notice to Members.

(b) **Taxable Year.** The Company's Taxable Year is the calendar year.

6.3 **Reports.**

(a) **Members.** Annual reports concerning the Company's business affairs, including the Company's annual income tax return, will be provided to Members who request them in writing. Each Member will receive his, her, or its respective K-1 Form as required by applicable law. The Manager may, at its sole and absolute discretion, designate any Person to provide tax and accounting advice to the Company, at any time and for any reason.

(b) Periodic Reports. The Company will complete and file any periodic reports required by the Act or the law of any other jurisdiction in which the Company is qualified to do business.

6.4 Tax Compliance.

(a) Withholding. If the Company is required by law or regulation to withhold and pay over to a governmental agency any part or all of a Distribution or allocation of Profit to a Member:

- (1) the amount withheld will be considered a Distribution to the Member; and
- (2) if the withholding requirement pertains to a Distribution in kind or an allocation of Profit, the Company will pay the amount required to be withheld to the governmental agency and promptly take such action as it considers necessary or appropriate to recover a like amount from the Member, including offset against any Distributions to which the Member would otherwise be entitled.

(b) Partnership Representative.

(i) The Members hereby agree that: (i) the Manager (or an individual designated by the Manager) will be designated the initial “partnership representative” within the meaning of Section 6223(a) of the Code (the “Partnership Representative”) and the Manager shall be authorized to take any actions necessary under Treasury Regulations or other guidance to cause such person to be designated as such; (ii) if an entity is designated as Partnership Representative, the Manager shall simultaneously designate an individual who will act for the entity Partnership Representative; (iii) the Partnership Representative may be removed and replaced at any time by the Manager; (iv) the Company and each Member agree that they shall be bound by the actions taken by the Partnership Representative, as described in Section 6223(b) of the Code; (v) the Members hereby consent to the election set forth in Section 6226(a) of the Code and agree to take any action, and furnish the Partnership Representative with any information necessary, to give effect to such election if the Manager decides to make such election; (vi) any imputed underpayment of tax imposed on the Company pursuant to Section 6232 of the Code (and any related interest, penalties or other additions to tax) that the Manager reasonably determines is attributable to one or more Members (including any former Member) in the Manager’s sole discretion; and (vii) the Partnership Representative will be considered indemnified and the provisions of Section 5.6 shall apply to the Partnership Representative. The Partnership Representative shall be authorized to take any of the foregoing actions (or any similar actions), to the extent necessary to allow the Company to comply with the partnership audit provisions of the Bipartisan Budget Act of 2015.

(ii) Regarding the potential obligation of a former Member under this paragraph, the following shall apply: (i) each Member agrees that notwithstanding any other provision in this Agreement if it is no longer a Member it shall nevertheless be obligated for any responsibilities under Section 6.5, as if it were a Member prior to withdrawal from the Company and/or transfer of its interest; and (ii) as applicable, the Manager will not be required to consent to the transfer of interest of any Member unless the transferee receiving such interest agrees that in the event the transferor of such interest does not fulfill its obligation under the preceding clause (i) within 20 business days following written demand by the Manager, such transferee shall be jointly and severally liable with such transferor for such obligation and the Manager may thereafter treat the transferee as the relevant Member for purposes of this Subsection. The Partnership Representative will provide prompt written notification to each Member in the event of any audit of the Company by the United States Internal Revenue Service and provide all information reasonably requested by any Member regarding such audit and associated proceedings. The provisions of this Section 6.5 will not apply to any taxable year of the Company for which the Company has made a valid election out of Subchapter C of Chapter 63 of the Code pursuant to Section 6221 of the Code.

ARTICLE 7: DISSOLUTION

7.1 **Events of Dissolution.** The Company will continue until (a) dissolved herein pursuant to Article 7 below, unless sooner dissolved or terminated under the Act or as described herein; (b) the sale or other disposition of all or substantially all the assets of the Company; (c) any event that makes the Company ineligible to conduct its activities as a limited liability company under the Act; or (d) otherwise by option of law.

7.2 **Effect of Dissolution.**

(a) **Appointment of Liquidator.** Upon the Company's dissolution, the Manager (unless unwilling or unable to serve as such) shall serve as liquidator, and as such will wind up and liquidate the Company in an orderly, prudent and expeditious manner in accordance with the following provisions of this Article. While serving as liquidator, the Manager shall have the same authority, powers, duties and compensation as before dissolution, except that the liquidator shall not acquire any additional assets for the Company, and shall use its best efforts to liquidate the Company's existing assets as rapidly as is consistent with receiving the fair market value thereof. If the Manager is unwilling or unable to serve as liquidator, or has resigned or been removed, the Members shall elect another person, who may be a Member, to serve as liquidator.

(b) **Distributions Upon Dissolution.** The Company will not cease to exist immediately upon the occurrence of an event of dissolution, but will continue until its affairs have been wound up. Upon dissolution of the Company, the Manager will wind up the Company's affairs by liquidating the Company's assets as promptly as is consistent with obtaining the fair market value thereof, either by sale to third parties or by collecting loan payments under the terms of the loan(s) until a suitable sale can be arranged. All funds received by the Company shall be applied to satisfy or provide for Company debts and liabilities and the balance, if any, shall be distributed to Members on a pro-rata basis.

(c) **Time for Liquidation.** The Company will not immediately cease to exist upon the occurrence of an event causing its dissolution, but will continue until its affairs have been wound up. It is acknowledged and agreed that the assets of the Company are illiquid, and will take time to sell. The liquidator shall liquidate the Company's assets as promptly as is consistent with obtaining the fair market value thereof, either by sale to third parties or by collecting loan payments under the terms of the loans. Due to high prevailing interest rates or other factors, the Company could suffer reduced earnings (or losses) if a substantial portion of its loan portfolio remains and must be liquidated quickly during the winding up period. Members who sell their Membership Interests prior to any such liquidation will not be exposed to this risk. Conversely, if prevailing interest rates have declined at a time when the loan portfolio must be liquidated, unanticipated profits could be realized by those Members who remained in the Company until its termination.

(d) **Final Accounting.** The liquidator will make proper accountings, (1) to the end of the month in which the event of dissolution occurred, and (2) to the date on which the Company is finally and completely liquidated.

(e) **Duties and Authority of Liquidator.** The liquidator will make adequate provision for the discharge of all of the Company's debts, obligations and liabilities. The liquidator may sell, encumber or retain for distribution in kind any of the Company's assets. Any gain or loss recognized on the sale of assets will be allocated to the Members' Capital Accounts in accordance with the provisions of Article 4. With respect to any asset the liquidator determines to retain for distribution in kind, the liquidator will allocate to the Members' Capital Accounts the amount of gain or loss that would have been recognized had the asset been sold at its fair market value.

(f) **Final Distribution.** The liquidator will distribute any assets remaining after the discharge or accommodation of the Company's debts, obligations and liabilities to the Members in proportion to their Capital Accounts. The liquidator will distribute any assets distributable in kind to the Members in undivided interests as tenants in common. A Member whose Capital Account is negative will have no liability to the Company, the Company's creditors or any other Member with respect to the negative balance.

(g) **Required Filings.** The liquidator will file with the appropriate Secretary of State such statements, certificates and other instruments, and take such other actions, as are reasonably necessary or appropriate to effectuate and confirm the cessation of the Company's existence.

ARTICLE 8: GENERAL PROVISIONS

8.1 **Amendments.** Except as otherwise provided herein, the Manager or any Member may propose, for consideration and action, an amendment to this Agreement or to the Articles. Except as otherwise provided herein, a proposed amendment will become effective at such time as it is approved by the Members holding a majority of the outstanding Membership Interests. Notwithstanding the foregoing, the Company, the Manager will execute and file any amendment to the Articles required by the Act. If any such amendment results in inconsistencies between the Articles and this Agreement, this Agreement will be considered to have been amended in the specifics necessary to eliminate fine inconsistencies.

8.2 **Power of Attorney.** Each Member appoints the Manager, with full power of substitution, as the Member's attorney-in-fact, to act in the Member's name to execute and file (a) all certificates, applications, reports and other instruments necessary to qualify or maintain the Company as a limited liability company in the states and foreign countries where the Company conducts its activities, (b) all instruments that effect or confirm changes or modifications of the Company or its status, including, without limitation, amendments to the Articles, and (c) all instruments of transfer necessary to effect the Company's dissolution and termination. The power of attorney granted by this Article is irrevocable, coupled with an interest and shall survive the death of the Member.

8.3 **Binding Arbitration;** Any dispute under this Agreement will be resolved under the then prevailing rules of the American Arbitration Association in the county of the Company's principal place of business.

8.4 **Notices.** Notices contemplated by this Agreement may be sent by any commercially reasonable means, including hand delivery, first class mail, facsimile, e-mail or private courier. The notice must be prepaid and addressed as set forth in the Company's records. The notice will be effective on the date of receipt or, in the case of notice sent by first class mail, the fifth (5th) day after mailing.

8.5 **Resolution of Inconsistencies.** If there are inconsistencies between this Agreement and the Articles, the Articles will control. If there are inconsistencies between this Agreement and the Act, this Agreement will control, except to the extent the inconsistencies relate to provisions of the Act that the Members cannot alter by agreement. If there are inconsistencies between this Agreement and the Memorandum, this Agreement will control. Without limiting the generality of the foregoing, unless the language or context clearly indicates a different intent, the provisions of this Agreement pertaining to the Company's governance and financial affairs and the rights of the Members upon Dissociation and dissolution will supersede the provisions of the Act relating to the same matters.

8.6 **Provisions Applicable to Transferees.** As the context requires and subject to the restrictions and limitations imposed by the provisions of this Agreement pertaining to the rights and obligations of a Member also govern the rights and obligations of the Member's Transferee.

8.7 **Additional Instruments.** Each Member will execute and deliver any document or statement necessary to give effect to the terms of this Agreement or to comply with any law, rule or regulation governing the Company's formation and activities.

8.8 **Computation of Time.** In computing any period of time under this Agreement, the day of the act or event from which the specified period begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday or legal holiday, in which case the period will run until the end of the next day that is not a Saturday, Sunday or legal holiday. For purposes of this paragraph, a day shall be deemed to end at 5:00 p.m. in the time zone where the Company then maintains its principal place of business.

8.9 **Entire Agreement.** This Agreement and the Articles comprise the entire agreement among the parties with respect to the Company. This Agreement and the Articles supersede any prior agreements or understandings with respect to the Company. No representation, statement or condition not contained in this Agreement or the Articles has any force or effect. Notwithstanding the provisions of this Agreement, including Section 8.1 or of any subscription agreement, it is hereby acknowledged and agreed that the Manager, on its own behalf or on behalf of the Company, without the approval of any Members or any other person, may enter into a side letter or similar agreement to or with a Member that has the effect of establishing rights under, or altering or supplementing the terms of this Agreement or of any subscription agreement. The parties hereto agree that any terms contained in a side letter or similar agreement to or with a Member shall govern with respect to Member notwithstanding the provisions of this Agreement or of any subscription agreement.

8.10 **Waiver.** No right under this Agreement may be waived, except by an instrument in writing signed by the party sought to be charged with the waiver.

8.11 **General Construction Principles.** Words in any gender are deemed to include the other genders. The singular is deemed to include the plural and vice versa. The headings and underlined paragraph titles are for guidance only and have no significance in the interpretation of this Agreement.

8.12 **Binding Effect.** Subject to the provisions of this Agreement relating to the transferability of Membership Interests and the rights of Transferees, this Agreement is binding on and will inure to the benefit of the Company, the Members and their respective distributees, successors and assigns.

8.13 **Governing Law.** California law governs the construction and application of the terms of this Agreement.

8.14 **Severability.** If any provision of this Agreement shall be deemed invalid, unenforceable or illegal, then notwithstanding such invalidity, unenforceability or illegality, the remainder of this Agreement shall continue in full force and effect.

8.15 **Counterparts; Facsimile.** This Agreement may be executed in counterparts, each of which will be considered an original as to the party signing it. Facsimile signatures shall have the same legal effect as original signatures.

[Signature Page to Operating Agreement follows]

[Signature Page to Operating Agreement]

PELORUS FUND, LLC,
a California Limited Liability Company

By: _____
James Robert Sechrist, Manager of
Pelorus Management Group, LLC,
Manager of the Company

**BY PURCHASING MEMBERSHIP INTERESTS IN THE COMPANY AND EXECUTING A
SUBSCRIPTION AGREEMENT, EACH MEMBER AGREES TO THE TERMS AND
PROVISIONS OF THIS OPERATING AGREEMENT, THE SUBSCRIPTION AGREEMENT
AND THE MEMORANDUM.**