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August 11, 2021

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
2<sup>nd</sup> Floor - Filing Room  
Harrisburg, PA 17120

Re: Ronald E. Beck t/a First Step Movers; Docket No. A-2019-3013560; **NAME ENTITY CHANGE TO 1<sup>ST</sup> STEP MOVERS LLC**

Dear Secretary Chiavetta:

Attached for filing with the Commission is a Change in Entity for Ronald E. Beck t/a First Step Movers, Docket No. A-2019-3013560, Utility Code A-8922773 to recently formed 1<sup>st</sup> Step Movers LLC. In compliance with the Commission's regulations, below and attached please find the required information to accompany the Name Entity Change via letter notification as there is no change in control or ownership of the Certificated operations:

1. Docket No. of Motor Carrier and the name of motor carrier as presently shown in Commission records:  
**Docket No. A-2019-3013560, Utility Code A-8922773, Ronald E. Beck t/a First Step Movers**
2. A copy of the articles of incorporation or certificate of organization, if applicable.  
**See Attachment 1 – Certificate of Organization; Attachment 2 – Articles of Incorporation**
3. The names of the owners of the stock (even if only one) and distribution of shares, if a corporation.  
**See Attachment 2, Section 2. Ronald E. Beck solely owns 100% of the 1,000 shares of 1<sup>st</sup> Step Movers LLC**

4. The names of the members (even if only one) for limited liability companies.

**Ronald E. Beck – Sole member**

5. A statement that there has been no change in the ownership or control of the business.

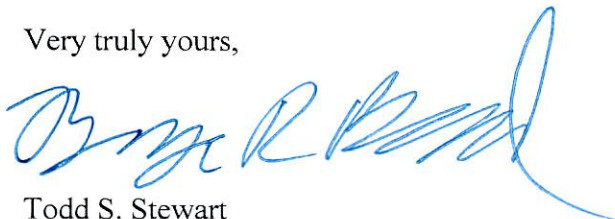
**There has been and will be no change in the ownership or control of the business during the formation of 1<sup>st</sup> Step Movers LLC**

6. The letter must also be accompanied by a signed and dated Verified Statement which can be found at the end of the instructions.

**See attached verification**

If there are any questions regarding this notice, please do not hesitate to contact our office.

Very truly yours,




Todd S. Stewart  
Bryce R. Beard  
*Counsel for 1<sup>st</sup> Step Movers, LLC*

BRB/jld  
Enclosures

**Attachment 1:**  
**1<sup>st</sup> Step Movers LLC Certificate of Organization**

**PENNSYLVANIA DEPARTMENT OF STATE  
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

<input type="checkbox"/> Return document by mail to: Markovitz & Germinaro - Attn: Eric <hr/> Name 1001 East Entry Drive <hr/> Address Pittsburgh, PA 15216 <hr/> City <span style="margin-left: 150px;">State</span> <span style="margin-left: 100px;">Zip Code</span>	Certificate of Organization Domestic Limited Liability Company DSCB:15-8821 (rev. 2/2017)   8821
<input type="checkbox"/> Return document by email to: _____	

Read all instructions prior to completing. This form may be submitted online at <https://www.corporations.pa.gov/>.

Fee: \$125       I qualify for a veteran/reservist-owned small business fee exemption (see instructions)

In compliance with the requirements of 15 Pa.C.S. § 8821 (relating to certificate of organization), the undersigned desiring to organize a limited liability company, hereby certifies that:

1. The name of the limited liability company is: 1st Step Movers LLC  
*(designator is required, e.g., "company," "limited" or "limited liability company" or any abbreviation thereof)*

2. Complete part (a) or (b) – not both:

(a) The address of this limited liability company's registered office in this Commonwealth is:  
*(post office box alone is not acceptable)*

221 3rd Street, Washington, Pennsylvania 15301 Washington County  
 Number and Street City State Zip County

(b) The name of this limited liability company's commercial registered office provider and county of venue is:

c/o:  
 Name of Commercial Registered Office Provider County

3. The name of each organizer is *(all organizers must sign on page 2)*:

Eric R. Jahn  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. Effective date of Certificate of Organization *(check, and if appropriate complete, one of the following)*:

The Certificate of Organization shall be effective upon filing in the Department of State.

The Certificate of Organization shall be effective on: \_\_\_\_\_ at \_\_\_\_\_  
Date (MM/DD/YYYY) Hour (if any)

**5. Restricted professional companies only.**

*Check the box if the limited liability company is organized to render a restricted professional service and check the type of restricted professional service(s).*

The company is a restricted professional company organized to render the following restricted professional service(s):

- Chiropractic
- Dentistry
- Law
- Medicine and surgery
- Optometry
- Osteopathic medicine and surgery
- Podiatric medicine
- Public accounting
- Psychology
- Veterinary medicine

**6. Benefit companies only.**

*Check the box immediately below if the limited liability company is organized as a benefit company:*

This limited liability company shall have the purpose of creating general public benefit.

*Optional specific public benefit purpose. Check the box immediately below if the benefit company is organized to have one or more specific public benefits and supply the specific public benefit(s). See instructions for examples of specific public benefit.*

This limited liability company shall have the purpose of creating the enumerated specific public benefit(s):

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7. For additional provisions of the certificate, if any, attach 8½ x 11 sheet(s).

IN TESTIMONY WHEREOF, the organizer(s) has (have) executed this Certificate of Organization this

\_\_\_\_\_ 12th day of \_\_\_\_\_ November \_\_\_\_\_, 20\_\_20\_\_\_\_\_.



Signature

Signature

Signature

**PENNSYLVANIA DEPARTMENT OF STATE  
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

Docketing Statement – New Entity  
DSCB:15-134A  
(rev. 2/2017)



**1. Entity Name:**

1st Step Movers LLC

In the case of a foreign association which must use an alternate name to register to do business in Pennsylvania, the alternate name should be given.

**2. Tax Responsible Party**

Name of individual responsible for initial tax reports: Ronald E. Beck

Mailing address of individual responsible for initial tax reports:

221 3rd Street, Washington, Pennsylvania 15301 Washington County

Number and street	City	State	Zip	County
221 3rd Street	Washington	Pennsylvania	15301	Washington County

**3. Description of Business Activity:**

Moving Services

**4. FEIN [Employer Identification Number/Federal Tax Identification Number]:** \_\_\_\_\_

FEIN enables agencies to confirm that Commonwealth accounts are properly matched and that this request is processed without added delay. If the business entity does not currently have an FEIN, it can get a FEIN immediately by applying online at <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Employer-ID-Numbers-EINs>.

**5. FYE [Tax Year or Fiscal Year End]:** 1 2 / 3 1  
Month / Day

A fiscal year (FY) is a period that a company or government uses for accounting purposes and preparing financial statements. For tax purposes, the Internal Revenue Service (IRS) allows companies to be either calendar-year taxpayers or fiscal-year taxpayers. Supply month and day for intended tax year end, e.g. 1/31, 2/28, 3/31, 4/30, 5/31, 6/30, 7/31, 8/31, 9/30, 10/31, 11/30 or 12/31.

**Attachment 2:**  
**1<sup>st</sup> Step Movers LLC Articles of Incorporation**

## OPERATING AGREEMENT

OF

1<sup>st</sup> STEP MOVERS, LLC

### RECITALS:

A. The party to this agreement (the "Member") is entering into this agreement for the purpose of forming a limited liability company (the "Company") under the Pennsylvania Limited Liability Company Law of 1994, 15 Pa.C.S. §8901 et seq. (the "Act"). The company is to be managed by a manager.

B. The member intends to make an election to have the company classified as a corporation for federal income tax purposes that is taxed as an S corporation. This election will be made immediately after the company is formed and will be effective on the first day of the company's first fiscal year.

### AGREEMENTS:

#### 1. Formation

1.1 **Name.** The name of the company is 1<sup>st</sup> STEP MOVERS, LLC.

1.2 **Articles of Organization.** Articles of organization for the company were filed with the Department of State for the Commonwealth of Pennsylvania on November \_\_\_\_, 2020.

1.3 **Duration.** The company will exist until dissolved as provided in this agreement.

1.4 **Principal Office.** The company's principal office will initially be at 221 3<sup>rd</sup> Street, Washington, Pennsylvania 15301, but it may be relocated by the member at any time.

1.5 **Purposes and Powers.** The company was created for providing moving services and it has the power to do anything permitted by law for a limited liability company to do and anything, incident, or in furtherance of this business.

1.6 **Title to Assets.** Title to all assets of the company will be held in the name of the company. No member has any right to the assets of the company or any ownership interest in them except indirectly as a result of the member's ownership of shares in the company. No member has any right to partition any assets of the company or any right to receive any specific assets on the winding up of the business of the company or on any other distribution from the company. Assets of the company may not be commingled with those of a member or any other person.



## 2. **Members, Contributions and Shares**

**2.1 Initial Members.** The name and address of the Initial Members of the company and their ownership shares are as follows:

<u>Name and Address</u>	<u>Ownership Shares</u>	<u>Percentage</u>
Ronald E. Beck	1,000 shares	100.0%

**2.2 Initial Capital Contribution.** The capital contribution must be paid to the company immediately after the members have signed this agreement.

**2.3 Additional Members.** Except as otherwise provided in the section of this agreement relating to substitution, additional members of the company may be admitted only with the approval of all of the members.

**2.4 Additional Contributions.** Except as otherwise provided in the act, no member is required to contribute additional capital to the company without the member's consent. Additional capital contributions may be made by members only if they unanimously approve the contributions and agree on the number of ownership shares that will be issued in exchange.

**2.5 No Interest on Capital Contributions.** No interest will be paid on capital contributions.

**2.6 Capital Accounts.** Because the company will be taxed as an S corporation and not as a partnership, no capital accounts will be maintained for the members.

## 3. **Allocation of Profits and Losses**

**3.1 Net Profit or Loss.** The net profit or net loss of the company for each fiscal year will be determined according to the accounting principles employed in the preparation of the company's federal income tax information return. No special provision will be made for tax-exempt or partially tax-exempt income. The profit or loss, as well as any items thereof that must be separately stated under IRC § 1366(a), will be allocated to the members in proportion to the ownership shares held by each of them.

**3.2 Membership Changes.** If a member has not been a member during a full fiscal year of the company, or if the number of ownership shares held by a member changes during a fiscal year, the net profit or net loss for the year will be allocated to the members based on their pro rata shares, as defined in IRC § 1377(a). But if any member's interest in the company is terminated during a fiscal year, the company may elect to treat the company as having two taxable years—one ending on the date the member's interest is terminated and the other ending on the last day of the company's fiscal year. In this case, the net profit or loss for each taxable year will be allocated only between those who were members during that taxable year. This election is available under IRC § 1377(a)(2) and requires the consent of the member whose interest is terminated as well as that of the company and other members.

**3.2.1** If a member's interest is terminated as a result of death or disability, the company and all other members must consent to an IRC § 1377(a)(2) election at the request of the terminated member or the terminated member's successor in interest.

**3.2.2** If a member's interest is terminated for another reason, the terminated member must consent to making an IRC § 1377(a)(2) election at the request of other members holding a majority of the ownership shares of the other members.

#### **4. Distributions**

**4.1 Annual Distributions.** To enable the members to pay taxes on income of the company, the company shall distribute cash during each fiscal year in an amount equal to the product of: (a) the amount of the taxable income of the company for the year and (b) the highest aggregate rate of federal, state, and local income tax imposed on any member's share of the income. Distributions must be paid quarterly at times that coincide to the extent possible with the members' payment of estimated taxes, and the amount of each distribution is to be based on the anticipated taxable income of the company for the fiscal year of the distribution and the anticipated tax rates of members, as determined at the time the distribution is made. This requirement for an annual tax distribution may be waived by the Members with their unanimous consent in writing.

**4.2 Additional Distributions.** Additional distributions of cash or assets may be made by the company to the members at such times and in such amounts as the manager determines. At least ten percent (10%) of funds available for distribution shall be held back from any distribution in the company for operating capital.

**4.3 Allocation and Limitation.** All annual distributions and additional distributions must be made to members in proportion to their ownership shares. No distribution, including an annual distribution, may be made to the extent it would violate the act's restrictions on distributions.

#### **5. Administration of Company Business**

**5.1 Management.** The company is a manager-managed LLC, and only the manager shall be vested with the exclusive authority to manage the company's business. A member, as such, shall not take part in, or interfere in any manner with, the management, conduct or control of the business and affairs of the company, and shall not have any right or authority to act for or bind the company. The company may act only by actions taken by or under the direction of the manager in accordance with this agreement. Ronald E. Beck is the initial manager of the Company. A manager can be removed by a majority vote of the members at any time. The manager shall have power and authority to take all actions necessary for the normal operation of the company, including but not limited to:

**5.1.1** Expend the company's funds in the conduct of its business;

**5.1.2** Sign and deliver all agreements and documents that are necessary or desirable to carry out the company's business, including documents transferring title to, leasing, or granting a security interest in any of the company's assets, without additional signatures

being required, and to open such bank accounts in the name of the Company as may be needed;

**5.1.3** Engage such persons as may be advisable to operate the company's business.

**5.2 Actions by Members.** In all matters in which the Members have a vote, all decisions will be decided by the affirmative vote or consent of members holding a majority of the ownership shares.

**5.3 Approval of Other Members.** the following items require the approval of a majority of interest of the members under the terms of this agreement:

**5.3.1** Sell, lease, exchange, mortgage, pledge, or otherwise transfer or dispose of all or substantially all of the assets of the company;

**5.3.2** Merge the company with any other entity;

**5.3.3** Amend the company's articles of organization or this agreement;

**5.3.4** Incur indebtedness by the company (either as loans or credit);

**5.3.5** Authorize a transaction involving an actual or potential conflict of interest between a member and the company;

**5.3.6** Change the nature of the business of the company; or

**5.3.7** Commence a voluntary bankruptcy case for the company.

**5.4 Compensation and Reimbursement.** Members who render services to the company are entitled to such compensation as may be agreed on by the members from time to time. Compensation paid to a member will be treated as compensation expense of the company in determining its net profit or loss and will not be charged against the share of profits of the company that would otherwise be allocated to the member receiving it. Members are also entitled to reimbursement from the company for reasonable expenses incurred on behalf of the company, including expenses incurred in its formation, dissolution, and liquidation.

**5.5 Outside Activities.** Each member must devote so much time and attention to the business of the company as the members agree is appropriate. Members are not expected to devote their full time to the business of the company and, except as limited by the section of this agreement relating to fiduciary duties, may engage in business and investment activities outside the company. Neither the company nor the other members have any rights to the profits or benefits of such activities.

**5.6 Fiduciary Duties.** Each manager and member owes the fiduciary duties of care and loyalty to the company and the other members (if any) and must discharge these duties and exercise the member's rights in the company consistently with the obligation of good faith and fair dealing. Managers and members must discharge their fiduciary duties of care and loyalty to

the company and the other members in accordance with the standards set forth in the section of this agreement relating to outside activities as well as the following standards:

**5.6.1** In conducting or winding up the company's business, a member must refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, and knowing violations of the law;

**5.6.2** A member must account to the company, and hold as trustee for the company, any profit or benefit derived by the member in the conduct or winding up of the company's business or derived from use by the member of the company's assets, including the appropriation of a company opportunity;

**5.6.3** Except as otherwise provided in the section of this agreement relating to self-interest, a member must refrain from dealing with the company in the conduct or winding up of its business either personally or on behalf of a party having an adverse interest to the company; and

**5.6.4** A member may not compete with the company in the conduct of its business prior to the time the company is dissolved.

**5.7 Self-Interest.** A member does not violate any duty or obligation to the company merely as a result of engaging in conduct that furthers the member's interests. A member may lend money or transact other business with the company, and in this case, the rights and obligations of the member will be the same as those of a person who is not a member, so long as the loan or other transaction has been approved or ratified by all members. Unless otherwise provided by applicable law, a member with a financial interest in the outcome of a particular action is nevertheless entitled to vote on the action.

**5.8 Indemnification.** The company must indemnify the manager and each of the members against all liabilities, losses, and costs (including attorneys' fees) incurred or suffered by the member in connection with being a manager or member of the company or in connection with the member's participation in any other entity, association, or enterprise at the request of the company. The company may, by action of the members, provide indemnification to employees and agents who are not members. The indemnification required in this section is not exclusive of that required by any statute, agreement, resolution of manager or members, contract, or otherwise. But notwithstanding any other provision of this agreement, the company has no obligation to indemnify a manager or member for any liability arising out of: (a) a breach of the member's fiduciary duties to the company or the members; (b) an act or omission not in good faith that involves intentional misconduct or a knowing violation of law; or (c) an unlawful distribution under the act. If the company has been dissolved and is unable to fully indemnify a member, each of the other members must indemnify the member for a proportionate share of the shortfall based on their ownership shares. But no member's indemnification obligation will exceed the amount of money and the value of assets received by the member when the company was dissolved.

**5.9 Limited Liability.** Except as otherwise provided in the act or this agreement, no member has any personal liability for any obligation, expense, or liability of the company, including the obligation to indemnify members.

## **6. Accounting and Records**

**6.1 Books and Records.** The Manager will be responsible for keeping such books and records relating to the operation of the company as are appropriate and adequate for the company's business and carrying out this agreement. At a minimum, the following must be maintained at the principal office of the company: (a) financial statements for the three most recent fiscal years; (b) federal, state, and local income tax returns for the three most recent fiscal years; (c) a register showing the names and current addresses of the members and the number of ownership shares owned by each; (d) the company's articles of organization and any amendments; (e) this agreement and any amendments; (f) minutes of all meetings of members; and (g) all consents to action by members. Each member will have access to the company's books and records at all times.

**6.2 Banking.** All funds of the company must be deposited in accounts in the company's name at banks or other financial institutions selected by the manager. Funds may be withdrawn from the accounts on the signature of a person or persons designated by the manager and the members.

**6.3 Fiscal Year.** The fiscal year of the company will be the calendar year.

**6.4 Accounting Reports.** Within 90 days after the close of each fiscal year, the company may deliver to each member an unaudited report of the activities of the company for the year, including a copy of a balance sheet of the company as of the end of the year and a profit and loss statement for the year.

**6.5 Tax Returns.** The company must prepare and file on a timely basis all required federal, state, and local income tax and other tax returns. Within 90 days after the end of each fiscal year, the company must deliver a Schedule K-1 to each member, showing the amounts of any income, deductions, credits, or other items allocated to the member for the fiscal year.

## **7. Dissociation of Members**

**7.1 Withdrawal.** A member may withdraw from the company but must give notice thereof to the other members at least 90 days prior to the effective date of the withdrawal.

**7.2 Expulsion.** A member may be expelled from the company by an affirmative vote of the members holding a majority of the ownership shares held by members other than the expelled member but only if the member: (a) has been guilty of wrongful conduct that adversely and materially affects the business or affairs of the company; (b) has willfully or persistently committed a material breach of the company's articles of organization or this agreement; or (c) has otherwise breached a duty owed to the company or the other members to the extent that it is not reasonably practicable to carry on the business or affairs of the company with the member. The right to expel a member under the provisions of this section does not limit any right of the company or the other members to recover any damages from the expelled member or to pursue other remedies available under applicable law or in equity. In addition to any other remedies, the company or the other members may offset any damages suffered against any amounts otherwise distributable or payable to the expelled member.

**7.3 Events of Dissociation.** A member dissociates from the company if the member withdraws or is expelled. A member also dissociates from the company if the member is an individual and dies or becomes incapacitated, the member is an entity and is dissolved or terminated, or the member becomes bankrupt.

**7.3.1** A member will be considered to be incapacitated if a guardian of the member or a conservator of the member's estate is appointed. A member will also be considered to be incapacitated if the member has been unable to perform the essential functions of a member of the company, with or without reasonable accommodation, for a consecutive period of 180 days, or if it has been determined with reasonable medical certainty that the member will be unable to perform those functions for such a period.

**7.3.2** A member will be considered bankrupt if the member: (a) makes an assignment for the benefit of creditors; (b) files a voluntary petition in bankruptcy; (c) is adjudicated as being bankrupt or insolvent; (d) files a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, or dissolution for the member, or similar relief, under any statute, law, or regulation; (e) files an answer or other pleading admitting or failing to contest the material allegations in any proceeding of the foregoing nature filed against the member or fails to have the proceeding dismissed within 120 days after it is commenced; or (f) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property, or fails to have the appointment vacated or stayed within 120 days after the appointment or after the expiration of a stay.

**7.4 Effect of Dissociation.** The dissociation date with respect to a dissociating member is the effective date of the member's withdrawal or the date of the member's expulsion. If another event causes the dissociation, the dissociation date is the later of the date of the event, or the first day the company has knowledge of the event. Within 60 days after the dissociation date, the company may elect to purchase all or part of the dissociating member's ownership shares by giving notice of the election to the dissociating member and all other members. If the company does not exercise its election to purchase all of the shares, one or more of the other members may elect to purchase the remaining shares by giving written notice to the dissociating member, the company, and the other members. This notice must be given within 15 days after the 60-day period for the company to purchase the shares expires. If more than one member elects to make the purchase, the electing members have the right to purchase the shares pro rata in accordance with their ownership of shares or on such other basis as they agree. No election to purchase a dissociating member's ownership shares will be effective unless the election is made by the company or the other members to purchase all of the shares. If neither the company nor the other members elect to purchase a dissociating member's shares within the allowable time limits, the company will be dissolved, and its business must be wound up.

**7.5 Status of Member.** A member ceases to be a member of the company on the dissociation date. After that, the dissociating member has no rights as a member in the company, except the right to have the member's ownership shares purchased in accordance with this agreement. If the company and other members fail to purchase a dissociating member's shares and the company is dissolved as a result, the member will be considered to have continued to be a member retroactive to the dissociation date and will have all rights of a member in connection with the winding up of the business of the company.

**7.6 Definitions.** For purposes of this agreement, the term "dissociating member" includes a dissociating member's successor in interest. If there is more than one purchaser of a dissociating member's interest, the term "purchaser" includes all of them.

## **8. Purchase Price**

The purchase price for a dissociating member's ownership shares may be determined by agreement between the dissociating member and the purchaser, whether the purchaser is the company or other members. If an agreement is not reached within 30 days following the election to purchase the shares, they must be valued by a third-party appraiser selected by the purchaser who is reasonably acceptable to the dissociating member, and the purchase price will be the value determined by that appraisal. In appraising the shares, the appraiser must consider the greater of the liquidation value of the company or its value as a going concern. The appraiser must also consider appropriate minority interest, lack of marketability, and other discounts. If the appraisal is not completed within 180 days following the election to purchase a dissociating member's shares, the dissociating member may apply to a court of competent jurisdiction for the appointment of another appraiser, in which case the court-appointed appraiser must appraise the shares in accordance with the standards set forth in this section, and the purchase price will be the value determined by that appraisal. One-half of the costs of all appraisals must be paid by the dissociating member, and the purchaser must pay the other half.

## **9. Payment**

**9.1 Terms.** Whether a dissociating member's ownership shares are purchased by the company or other members, the purchase price for the shares will be paid as provided in this section.

**9.1.1** The price will be paid accordance with a promissory note of the purchaser providing for the payment of the principal amount in 60 equal monthly installments, including interest on the unpaid balance at the prime rate of interest as quoted in *The Wall Street Journal* for the last business day before the closing. If there is more than one purchaser, the purchasers will be jointly and severally liable for payment of the note. The first installment on the note will be due one month after the date of closing, and an additional installment will be due on the same day of each succeeding month until the note is paid in full. The note will provide that if any installment is not paid when due, the holder may declare the entire remaining balance, together with all accrued interest, immediately due and payable. Partial or complete prepayment of the remaining balance due under the note will be permitted at any time without penalty, but no partial prepayment will affect the amount or regularity of payments coming due thereafter.

**9.1.2** The promissory note will be secured by one or more security agreements in a form reasonably acceptable to the lawyer for the dissociating member in which the collateral is a percentage of the outstanding ownership shares of the company sold by the dissociating member. If one or more other members purchase the dissociating member's shares, the collateral furnished by each member will be the number of shares purchased by the member. If the company purchases the shares, each of the other members must sign a separate security agreement securing the company's payment of the purchase

price. In this case, the collateral for each security agreement will be a percentage of the signing member's ownership shares, as they exist after the purchase, equal to the percentage of the outstanding ownership shares being purchased by the company. For example, if there are three members, two hold 25 ownership shares and one holds 50 ownership shares, and the company purchases all of the shares of the member with 50 shares, each of the other two members (who will hold 50% of the outstanding ownership shares after the closing) must provide collateral in the form of 12.5 ownership shares (25% of the 50 outstanding ownership shares). All security agreements must provide that if there is a default and the security interest in the ownership shares serving as collateral is foreclosed or the shares are retained by the secured party in satisfaction of the secured indebtedness, the shares will be transferable without the consent of the members or tender of the shares for sale to the company or other members. In addition, the security agreement must permit a person to whom shares are transferred to be admitted as a member of the company without consent of the members so long as the person agrees in writing to be subject to this agreement, as amended prior to the transfer.

**9.2 Closing.** The purchase must be closed within 30 days following the determination of the purchase price. At the closing, the dissociating member must sign and deliver to the purchaser a written assignment transferring the dissociating member's ownership shares free and clear of all encumbrances. The assignment must contain warranties of title and good right to transfer. The purchaser must sign and deliver to the dissociating member the promissory note, one or more security agreements, and signed financing statements sufficient to perfect the security interests created by the security agreements. All security agreements must be signed by all of the other members evidencing their consent to the creation of the security interest, transfer of the ownership shares constituting the collateral in the event of a default, and admission of the dissociating member as a member of the company following a default.

**9.3 Indebtedness, Guaranties and Security Interests.** If all of a member's ownership shares are as a result of a dissociation or the tender of the shares to the company for sale, all obligations of the company and other members owed to the dissociating member must be paid in full at the time of the closing, and all obligations of the dissociating member owed to the company or other members must also be paid in full. In addition, the company and other members must make reasonable efforts to obtain the release of the dissociating member from any guaranty of indebtedness or obligations of the company and to obtain the release of any trust deed, mortgage, pledge, security interest, or other security device in any form on any property or interest in property of the dissociating member that secures the indebtedness or obligations. If these releases cannot be obtained, the company and the other members must, at the time of the closing, agree to indemnify and hold the seller harmless from any loss, liability, or expense, including reasonable attorneys' fees, arising out of or related to the indebtedness or obligations.

## **10. Life Insurance**

**10.1 Funding Source.** The company may insure the life of any member for purposes of funding the purchase of ownership shares of deceased members under this agreement, and the members consent to the company's purchase of such insurance.

**10.2 Policy Ownership.** The company will be the sole owner of any life insurance policies that it purchases and may use any dividends declared and paid on a policy for the payment of



premiums on the policy. The company may name itself as beneficiary of any life insurance policies purchased, but death benefits received by the company must be held in trust for the purposes of this agreement.

**10.3 Amount.** The amount of insurance purchased by the company on the life of a member may be the amount the company deems appropriate, but may not exceed the following amounts:

<u>Member</u>	<u>Amount</u>
Ronald E. Beck	\$ _____

**10.4 Death of Insured.** If the company owns insurance on the life of a member at the time of his or her death and the price for the purchase of the member's ownership shares is determined by appraisal, the insurance must be valued for purposes of the appraisal at its cash surrender value on the day preceding the member's death. Whether the purchase price is determined by agreement or appraisal and whether the purchase is made by the company or the other members, the purchase price for all of a deceased member's ownership shares may not be less than the amount of the death benefits received by the company, and a down payment must be made when the purchase of the decedent's shares is closed equal to the amount of such death benefits. The amount of this down payment will reduce the amount of the promissory note or notes representing the obligation to purchase the decedent's shares.

**10.5 Dissociation of Insured.** The company may retain ownership of insurance on the life of any member who ceases to be a member of the company. But if a member dissociates from the company for a reason other than death, the member has the right to purchase any insurance on his or her life. This option may be exercised at any time after the member's dissociation by giving notice of exercise to the company. The price for any insurance policy purchased will be its cash surrender value on the date of its purchase, less the balance of any loans outstanding against the policy on that date. The sale of the policy must be closed promptly after notice of exercise of the option is given, and the purchase price must be paid in collected funds. The company is not obligated to retain ownership of any policy on the life of a member for more than 60 days after his or her dissociation.

## **11. Transfer of Ownership Shares**

**11.1 Effectiveness of Transfers.** No member may transfer any portion of the member's ownership shares except as permitted in this section. Any purported transfer of an ownership share in violation of this agreement will be void and of no effect unless: (a) the transfer will not cause the company's S corporation election to terminate and (b) the transfer is otherwise permitted under this agreement. A "transfer" includes a sale, exchange, pledge, or other disposition, whether voluntary, involuntary, or by operation of law, and specifically includes the transfer of a member's shares incident to a dissolution of the member's marriage or a legal separation from his or her spouse.

**11.2 Securities Law Restriction.** Each member acknowledges that the member's ownership shares have not been registered under the Securities Act of 1933 or applicable state securities laws in reliance on exemptions from registration and that the resale or other transfer of the shares

is restricted by applicable provisions of those laws. Each member agrees that the member's ownership shares may not be offered for sale, sold, transferred, pledged, or otherwise disposed of unless the shares are registered under the Securities Act of 1933 and applicable state securities laws or unless an exemption from registration is otherwise available. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, A MEMBER'S OWNERSHIP SHARES IN THE COMPANY MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED, PLEDGED, OR OTHERWISE DISPOSED OF IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 AND APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL SATISFACTORY TO THE MANAGER THAT REGISTRATION UNDER THE SECURITIES ACT OF 1933 AND APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED.

**11.3 Permitted Transfers.** A member may transfer all or any of the member's ownership shares with the prior written consent of all other members. If the other members do not consent, the member may make the transfer if: (a) the shares has been tendered for sale to the company; (b) the tender has not been accepted by the company or the other members within the time limits set forth in this agreement; (c) the transfer is made to the transferee named in the notice of tender within 180 days after the notice is given; and (d) the transfer is at a price and on terms no more favorable to the transferee than those set forth in the notice

**11.4 Tender of Shares.** If a member wants to transfer all or part of the member's ownership shares and the other members do not consent, the shares may be tendered for sale by giving notice to the company. The notice must contain the name and address of the proposed transferee, the price to be paid for the shares, if any, and the terms of the proposed transfer. If a member's shares are transferred involuntarily or by operation of law, the successor in interest to the transferring member may give notice of a tender to the company at any time following the transfer. Another member may also give notice of a tender on behalf of the successor in interest. In this case, the notice must be given to the successor in interest as well as the company, and the successor in interest will be deemed to have given the notice of a tender at the time it is given by the member. For purposes of this agreement, the term "tendering member" includes a successor in interest to a member whose ownership interest has been transferred.

**11.5 Acceptance of Tender.** Within 60 days after a notice of tender is given, the company may accept the tender by giving notice to the tendering member. The company will then have the right to purchase the tendered ownership shares for the lesser of the price set forth in the notice of tender (if the proposed transfer is to be by sale) or the price determined under this agreement as if the tendering member dissociated from the company on the date of the tender. The purchase will be closed and the price paid on the terms that would apply under this agreement if the tendering member had dissociated on the date of the tender, unless the proposed transfer involves a sale, in which case the company may choose to pay the purchase price on the terms set forth in the notice of tender or in this agreement.

**11.6 Purchase by Members.** If the company fails to exercise its right to accept a tender, any member may accept the tender and purchase the tendered shares at the same price and on the same terms that would apply to a purchase by the company. Notice of acceptance of tender by a member must be given to all other members as well as to the tendering member within 15 days following the expiration of the 60-day period for the company to accept the tender. If more than

one member accepts the tender, the accepting members have the right to purchase the tendered shares pro rata in accordance with their ownership of the company's outstanding shares.

**11.7 Purchase of All Shares Required.** No acceptance of a tender will be effective unless the tender is accepted by the company or by other members as to all of the ownership shares tendered. A tendering member is not required to sell only a part of the shares that have been tendered.

**11.8 Effect of Tender.** The member tendering ownership shares will cease to be a member with respect to the shares when the tender is accepted by the company or other members. Thereafter, the tendering member will have no rights as a member in the company, except the right to have the tendered shares purchased in accordance with this agreement.

**11.9 Substitution.** If part or all a member's ownership shares are transferred, the transferee may be admitted as a member of the company if the transferee commits in writing to be subject to this agreement, as amended prior to the transfer. But a transferee will be admitted only if all members consent to the admission, and they may withhold their consent reasonably or unreasonably. If a transferee is not admitted as a member, the transferee will be allocated the portion of the company's profits or losses allocated to the ownership shares that have been transferred and will have the right to receive distributions from the company with respect to the shares. But the transferee will not have the other rights of a member, including the right to vote or otherwise participate in the management of the company, to act on behalf of the company, or to inspect records of the company. If the transferee is the only member of the company following the transfer, the transferee will be admitted as a member without the need for an agreement to be bound by this operating agreement or the consent of members.

## **12. Dissolution and Winding Up**

**12.1 Causes of Dissolution.** The company will dissolve on the earliest of the following events: (a) the expiration of the period of time for the company and other members to elect to purchase the ownership shares of a dissociating member if neither the company nor the other members have exercised this election; (b) approval of a dissolution of the company by unanimous consent of the members; or (c) at such time as the company has no members.

**12.2 Liquidation after Dissolution.** Following the dissolution of the company, the manager must wind up its affairs. A full account must be taken of the assets and liabilities of the company, and assets of the company must be liquidated except those that will be distributed to creditors or members in kind. The assets of the company must then be applied and distributed in the following order of priority:

**12.2.1** To the creditors of the company in satisfaction of liabilities and obligations of the company, including, to the extent permitted by law, liabilities and obligations owed to members as creditors (except liabilities for unpaid distributions);

**12.2.2** To any reserves set up for contingent or unliquidated liabilities or obligations of the company deemed reasonably necessary by the members, which reserves may be delivered to an escrow agent to be held for disbursement in satisfaction of the liabilities

and obligations of the company, with any excess being distributed to the members as provided in the following subsection; and

**12.2.3** To the member in proportion to the ownership shares held by each.

**12.3 Distribution of Assets in Kind.** Assets of the company may be distributed in kind in the process of winding up with the unanimous approval of the members. The fair market value of any assets distributed in kind must be determined, and that value will be charged against the amount distributable to the member receiving the assets.

**12.4 Limited Liability.** If the assets of the company are insufficient to discharge the liabilities of the company after it is dissolved, no member will have any obligation to contribute capital to the company to cover the shortfall.

### **13. Preservation of S Corporation Election**

**13.1 Consent to Revocation.** No member may sign a consent to the revocation of the company's election to be taxed as an S corporation for federal income tax purposes unless members holding at least 75% of the ownership shares consent to the revocation.

**13.2 Limitations on Company Action.** The company may not, without approval of the members holding at least 75% of the ownership shares, take any action that would result in its failure to qualify as an S corporation, including without limitation, the issuance of a second class of ownership shares, issuance of shares to more than 100 members, or issuance of shares to a person who is not eligible to own stock of an S corporation.

**13.3 Inadvertent Termination.** If the company's S corporation election is terminated and the termination is inadvertent within the meaning of IRC § 1362(f), each member must make any adjustments required by the Internal Revenue Service in order for the company to be treated as if its S corporation election remained in effect. But no member is required to make any adjustment that will adversely affect the member, considering the position the member would have been in had the company's S corporation election not terminated, unless the company or the other members indemnify and hold the member harmless against the adverse consequences. The obligations of this subsection are binding on all members who are parties to this agreement or become members of the company in the future, whether or not any such member holds ownership shares at the time the required adjustments are to be made.

### **14. Endorsement on Share Certificates**

The following must be endorsed on all certificates representing ownership shares of the company:

The ownership shares evidenced by this certificate are subject to and transferable only upon compliance with the terms of the operating agreement of the company issuing this certificate. Any transfer in violation of that agreement is invalid, and the agreement is automatically binding on anyone who acquires ownership shares. A copy of the operating agreement is available for inspection at the company's office.

## **15. Representations and Warranties of Members**

Each member represents and warrants to the company and the other members that the member has acquired ownership shares for the member's own account for investment and not with a view to distribution of the shares.

## **16. Cross Offer**

**16.1 Cross Offer Notice.** If the members are unable to make decisions about the management of the company for a period of 60 days as a result of deadlock, a failure of one or more members to participate in decision making, or other reason, any member (the "initiating member") may give notice (the "cross offer notice") to all other members of the initiating member's intent to either purchase the ownership shares of all other members in the company or sell the initiating member's shares to the other members. The cross offer notice must set forth a proposed price and terms of payment, and the price and terms will apply whether the initiating member makes a purchase or a sale. A cross offer notice can only be given while the members are unable to make decisions, and no such notice may be given while another member's offer to purchase or sell under a cross offer notice is outstanding.

**16.2 Response.** The other members can elect to either sell their shares or purchase those of the initiating member. The election requires the consent of other members who hold a majority of the shares other than those held by the initiating member. The election must be made by giving notice thereof to the initiating member within 30 days after the cross offer notice is given. If the other members fail to make an election or fail to provide timely notice of the election, the other members will be deemed to have elected to sell their shares to the initiating member.

**16.3 Dissenting Members.** If members holding a majority of the shares other than those of the initiating member elect to purchase the initiating member's shares, any member who did not consent to the election may give notice of dissent to the remaining other members. If a notice of dissent is given within 15 days after an election is made to purchase the initiating member's shares, the dissenting member's shares must be purchased by the other members. The purchase will be made at the same price and on the same terms as the purchase of the initiating member's shares and will be closed at the same time as that purchase.

**16.4 Closing of Purchase or Sale.** A purchase or sale resulting from a cross offer notice must be closed within 30 days after the other members give notice to the initiating member of their response to the cross offer notice, or if no response is given, 30 days from the expiration of the period for the other members to respond.

## **17. Miscellaneous Provisions**

**17.1 Amendment.** The members may amend or repeal all or part of this agreement with the written approval of Members holding at least 75% of the stock of the Company; it cannot be amended or repealed by oral agreement.

**17.2 Binding Effect.** The provisions of this agreement are binding on and will inure to the benefit of the heirs, personal representatives, successors, and assigns of the member or members.

This section is, however, not a modification of any restriction on transfer set forth in this agreement.

**17.3 Notice.** Except as otherwise provided in other sections of this agreement, any notice or other communication required or permitted to be given under this agreement must be in writing and personally delivered or mailed by certified mail, return receipt requested, with postage prepaid. Notices mailed to a member must be addressed to the member's address listed in the section of this agreement relating to initial members, or if there is none, the address of the member shown on the records of the company. Notices mailed to the company must be addressed to its principal office. The address of a party to which notices are to be mailed may be changed by the party's giving written notice to the other parties. All mailed notices and other communications will be deemed to be given at the expiration of three days after the date of mailing unless the recipient acknowledges receipt prior to that time.

**17.4 Specific Performance.** The members declare that it is impossible to measure in money the damages that will accrue if any member or the successors or assigns of any member should fail to perform any of the obligations contained in the provisions of this agreement relating to transfer of ownership shares and preservation of S corporation status, including a tendering member's obligation to vote the member's shares in favor of the company's purchase of the shares at the request of the other members. Therefore, those provisions may be specifically enforced in equity, and all members waive the claim or defense that the remedy at law is adequate if they are breached.

**17.5 Litigation Expense.** If any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this agreement, including any proceeding in the United States Bankruptcy Court, the prevailing party will be entitled to recover a reasonable attorneys' fee in the proceeding, or any appeal, to be set by the court without the necessity of hearing testimony or receiving evidence, in addition to the costs and disbursements allowed by law.

**17.6 Additional Documents.** Each member must execute all additional documents and take all actions as are reasonably requested by the other members in order to complete or confirm the transactions contemplated by this agreement.

**17.7 Counterparts.** This agreement may be executed in two or more counterparts, which together will constitute one agreement.

**17.8 Governing Law.** This agreement will be governed by the law of the Commonwealth of Pennsylvania and must be construed in accordance with that law.

**17.9 Third Party Beneficiaries.** The provisions of this agreement are intended solely for the benefit of the member or members and create no rights or obligations enforceable by any third party, including any creditor of the company, except as otherwise provided by applicable law.

**17.10 Arbitration.** All disputes arising out of this Agreement which cannot be resolved by the Members shall be submitted to arbitration in Pittsburgh, Pennsylvania before one arbitrator in accordance with the rules of the American Arbitration Association. The arbitrator may assess costs, including counsel fees, in such manner as the arbitrator deems fair and equitable. The

award of the arbitrator shall be final and binding on all parties, and the judgment upon the award may be entered in any court of competent jurisdiction.

IN WITNESS WHEREOF, the Company and the initial Member of the Company has caused this Agreement to be executed as of the 13 day of November 2020.

Members:

A handwritten signature in cursive script that reads "Ronald E. Beck". The signature is written in dark ink and is positioned above a horizontal line.

Ronald E. Beck

**VERIFICATION**

I, Ronald P. Beck, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Ronald P. Beck

**Signature**

7-23-21

**Date**