



OPERATING AGREEMENT OF THE

DARE TO DREAM STABLE #23 LLC

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THIS AGREEMENT by and among the DARE TO DREAM STABLE #23 LLC, a Illinois Limited Liability Company (the “Company”), and persons who complete the attached Counterpart Signature Page hereto (the “Members”), which term shall include each person or entity who hereafter becomes a party to this Agreement.

ARTICLE I
GENERAL PROVISIONS

1.1 **Definitions.** As used in this Agreement, the following terms shall have the meanings set forth below:

- (a) “Articles of Organization” shall mean the articles of organization of the Company filed with the Secretary of State of the State of Illinois.
- (b) “Assignee” shall mean the holder of an Economic Interest in the Company who is not a Member.
- (c) “Capital Account” as of any date shall mean the Capital Contribution to the Company by a Member, adjusted as of such date pursuant to this Agreement.
- (d) “Capital Contribution” shall mean any contribution by a Member to the capital of the Company in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services.
- (e) “Code” shall mean the Internal Revenue Code of 1986, as amended, or any superseding federal revenue statute.
- (f) “Distribution” means any cash or other property paid to a Member by the Company from the operations of the Company.
- (g) “Economic Interest” shall mean the right to share in the allocation of one or more of the Company’s allocable items including, without limitation, Net Profits and Net Losses, and/or in distributions of the Company’s assets, in each case pursuant to this Agreement or the LLC law of the State of Illinois, but shall not include any Management Interest.
- (h) “Interest” shall mean any part of an Economic Interest, Management Interest or Membership Interest.
- (i) “Interest Holder” shall mean a Member or Assignee, as applicable.
- (j) “LLCA” shall mean the Limited Liability Company Act of the State of Illinois (805 ILCS 180), as amended from time to time.
- (k) “Majority in Interest” shall mean Members holding, individually or in aggregate, more than 50% of the aggregate Percentage Interests held by all Members (or such class, classes or

group, if any, of Members as may be entitled to vote on, consent to, or otherwise participate in, any decision or action hereunder).

- (l) “Management Interest” shall mean a Member’s right to participate in the business and affairs of the Company, including the right to vote on, consent to or otherwise participate in any decision or action of or by the Members under this Agreement or the LLCA.
- (m) “Manager” shall mean the person, persons or corporate entity specified in Article II of this Agreement and any other individual who succeeds any such person as a manager pursuant to this Agreement.
- (n) “Membership Interest” shall mean a Member’s entire interest in the Company, including such Members Economic Interest (to the extent not transferred) and Management Interest, if any.
- (o) “Member-Manager” shall mean a Manager who is also a Member.
- (p) “Net Losses” shall mean the losses of the Company, if any, determined in accordance with the cash method of accounting.
- (q) “Net Profits” shall mean the income of the Company, if any, determined in accordance with the cash method of accounting.
- (r) “Percentage Interest” shall mean an Interest Holder’s percentage share of Net Profits, Net Losses, and other regularly allocable items and distributions of the Company and voting interest. Said Percentage Interest shall be established in the sole discretion of the Manager, from time to time based on each Member’s Capital Contribution to the Company as compared to all Capital Contributions made cumulatively by all Members to the Company. Said Percentage Interest of all Members shall be diluted by the 5% interest granted to the Manager in Article IX, Section 9.2, each time a new Member is admitted to the Company and said new Member makes a Capital Contribution or anytime any Member makes a Capital Contribution to the Company.
- (s) “Person” shall mean a natural person or any corporation, governmental authority, Limited Liability Company, partnership, trust, unincorporated association or other entity.
- (t) “Treasury Regulations” shall mean all proposed, temporary, and final regulations promulgated under the Code as from time to time in effect.

1.2 **Formation.** One or more persons have acted or will act as an organizer or organizers to form a Limited Liability Company by preparing, executing and filing with the Secretary of State of the State of Illinois the Articles of Organization pursuant to the LLCA.

1.3 **Name.** The name of the Company (LLC) is and shall be the **DARE TO DREAM STABLE #23 LLC**, an Illinois LLC.

- 1.4 **Principal Office.** The current principal office of the Company shall be located at 408 N. Butterfield Rd, Libertyville IL 60048.
- 1.5 **Registered Agent.** The Company’s registered agent for service shall be Michael B. Faber, 408 N. Butterfield Rd., Libertyville, IL 60048
- 1.6 **Effective Date: Duration.** This Agreement shall take effect, and the Term of the Company shall commence, at the time and on the date the Articles of Organization are duly filed and recorded at the Secretary of State of the State of Illinois, Department of Business Services. The Term of the Company shall be 30 years, unless the Company is terminated sooner pursuant to this Agreement or the laws of the State of Illinois, and “LLCA”.
- 1.7 **Purpose.** The Company is formed to acquire, maintain, train, breed and race thoroughbred horses and to manage, lease and or otherwise utilize or dispose of the horse(s) in such manner as the Members/Manager shall so determine; and to engage in any lawful act or activity, for which limited liability companies may be organized under LLCA and engaging in all activities necessary or incidental to the foregoing.
- 1.8 **Members.** The initial Members are as set forth in the preamble. Additional persons may be admitted as Members upon the vote of the Members holding a Majority in Interest. A Member shall have no right or power to surrender his or its Membership Interest voluntarily or otherwise take, or permit to be taken, any action that would cause a termination of such Member’s membership in the Company.
- 1.9 **Books and Records.** The Company shall keep books and records of account and minutes of all meetings of the Members. Each Member may inspect the books and records of the Company during ordinary business hours at the Company’s principal place of business upon fifteen (15) days notice.
- 1.10 **Liability of Members.** Notwithstanding any other provisions of this Agreement no Member (or former Member) shall have any liability for the obligations or liabilities of the Company except as otherwise provided in this Agreement pursuant to Section 4.8, and to the extent provided in the LLCA.

ARTICLE II **MANAGEMENT**

- 2.1 **Number and Designation of Manager.** There shall be one (1) Manager, who initially shall be Michael B. Faber. Michael B. Faber has the right to form any type of legal organizational body under which he may operate as Manager without requiring a vote of the Membership or an Amendment to this Agreement, so long as Michael B. Faber is the principal of any such organization. If Michael B. Faber, or any of his organizational derivatives, shall retire or resign as the Manager, then the successor Manager shall be selected by vote of the Members of the Company having a Majority in Interest of the Members of the Company.

- 2.2 **Manager Rights and Duties.** Subject to Section 2.4 below, the Manager shall be solely responsible for the management of the Company's business. He shall possess all rights and powers generally conferred by law and all rights and powers that are necessary, advisable or consistent in connection therewith and with the provisions of this Agreement. The Manager shall also be vested with all specific rights and powers required for or appropriate to the management, conduct or operation of the business of the Company. The Manager shall be paid compensation in accordance with Article IX of this Agreement. The Manager shall perform its duties in the best interest of the Company.
- 2.3 **Powers: Action by Manager.** Except as set forth in this Agreement, the Manager shall have power and authority, on behalf of the Company, to (a) purchase, lease or otherwise acquire from, or sell, lease or otherwise dispose of to, any Person any real or personal property, (b) open bank accounts and otherwise invest the funds of the Company, (c) purchase insurance on the business and assets of the Company, (d) commence lawsuits and other proceedings, (e) enter into any agreement, instrument or other writing, (f) retain accountants, attorneys or other agents, and (g) take any other lawful action that the Manager considers necessary, convenient or advisable in connection with any business of the Company. In addition, the Manager shall be responsible for the day-to-day administration and management of the Company it is the Manager's responsibilities shall include, but shall not be limited to the following: (h) interfacing with the Trainer; (i) interfacing with the Members; (j) maintaining the Company's books, records, and bank accounts; (k) generating quarterly reports for the Members; (l) generating the annual Company tax return including the Member's K-1 statements.
- 2.4 **Manager Limitations.** Notwithstanding Section 2.3 above, the following actions shall be exercised only with the consent of a Majority in Interest:
- (a) the private sale of any thoroughbred interest owned by the Company, unless delay of such sale would cause undue financial hardship to the membership in the judgment of the Manager.
 - (b) the incurrence of any obligation on behalf of the Company or the expenditure of any Company funds, in excess of \$85,000.00 (Eighty Five Thousand dollars) per single transaction.
- 2.5 **Compensation.** The salary and other compensation of Manager shall be set by this operating agreement as specified in Article IX, Section 9.2
- 2.6 **Vacancies.** Subject to the provisions of Section 2.1 governing the designation of Manager by Members, vacancies may be filled by vote of a majority of the Members in accordance with Section 2.1. The Manager so chosen shall hold office until the next annual meeting of the Members or until a successor is duly elected and qualified, or until death, incapacity, resignation or removal.
- 2.7 **Resignation.** The Manager may resign at any time by providing sixty (60) days written notice. Unless otherwise agreed to by the Majority in Interest, the Manager's resignation will terminate and waive the Manager's right to any further compensation under this Agreement and specifically, paragraph 9.2 (a) and (b) of the same.

- 2.8 **Meetings of Members by Means of Conference Telephone, Internet Chat or E-Mail.** The Manager may participate in a meeting by means of a conference telephone, Internet chat, e-mail or similar communications equipment. Such participation shall constitute presence in person at such meeting.
- 2.9 **No Exclusive Duty to Company.** The Manager shall not be required to manage the Company as his sole and exclusive function and will have other business interests and may engage in other activities in addition to those relating to the Company including other business identical or similar to the business of the Company. Neither the Company nor any Member shall have any right pursuant to this Agreement to share or participate in such other business interests or activities or to the income or proceeds derived there from. The Company and all members specifically agree to hold the Manager harmless for any and all decisions and actions relating to similar business activities amongst the different interests the Manager may be engaged in.

ARTICLE III **MEETINGS OF MEMBERS**

- 3.1 **Place of Meetings.** Meetings of the Members shall be held at such time and place as shall be designated from time to time by the Manager and stated in the notice of the meeting or in a duly executed waiver of notice thereof.
- 3.2 **Annual Meetings.** Annual meetings of Members, though not required, shall be held on such dates and at such times as shall be designated from time to time by the Manager and stated in the notice of the meeting, at which meetings the Members, if necessary as per sections 2.1 and 2.6, shall elect the Manager of the Company by vote of a majority of Membership Interests and transact such other business as properly may be brought before the meeting. Written notice of the annual meeting stating the place, date and hour of the meeting shall be given to each Member entitled to vote at such meeting not less than ten (10) not more than sixty (60) days before the date of the meeting.
- 3.3 **Special Meetings.** Special Meetings of Members for any purpose or purposes may be called by the Manager or by a Majority in Interest of Members. Written notice of a special meeting stating the place, date and hour of the meeting and the purpose or purposes for which the meeting is called shall be given not less than thirty (30) not more than sixty (60) days before the date of the meeting to each Member entitled to vote at such meeting.
- 3.4 **Record Date.** In order that the Company may determine the Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or entitled to express consent to Company action in writing without a meeting, or entitled to receive payment of any Distribution or allotment of any rights, or to make a determination of Members for any other purpose, the date on which the notice of meeting is mailed, or the date on which the resolution declaring a Distribution is adopted, as the case may be, shall be the record date for making such

a determination. A determination of Members of record entitled to notice of or to vote at a meeting of Members shall apply to any adjournment of the meeting.

- 3.5 **Quorum.** The holders of a Majority in Interest of Members, present in person or by proxy, shall constitute a quorum at all meetings of Members for the transaction of business. If, however, such quorum shall not be present or represented by proxy at any meeting of Members, the Members entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member entitled to vote at the meeting. The Members present at a meeting shall be given to each Member entitled to vote at the meeting. The Members present at a meeting may continue to transact business until a quorum notwithstanding the withdrawal during the meeting of Members whose absence results in less than a quorum being present.
- 3.6 **Voting.** Unless otherwise required by law, the Articles of Organization or this Agreement, any question brought before any meeting of Members shall be decided by the vote of the holders of a Majority in Interest of Members represented and entitled to vote. Such votes may be cast in person or by proxy but no proxy shall be voted on or after eleven (11) months from its date, unless such proxy provides for a longer period. The Members, in their discretion, or the Member of the Company presiding at a meeting of Members, in his discretion, may require that any votes cast at such meeting shall be cast by written ballot.
- 3.7 **Action Without Vote.**
- (a) Unless otherwise provided in the Articles of Organization, the LLCA, or this Agreement, whenever Members are required or permitted to take any action by vote or at an annual or special meeting, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by Members holding, in the aggregate not less than the minimum percentage of Percentage Interests that would be necessary to authorize or take such action at a meeting at which all Members entitled to vote thereon were present and voted. The consents shall be delivered by hand or by certified or registered mail, return receipt requested, to the office of the Company, its principal place of business or the Manager, employee or agent of the Company having custody of its records.
 - (b) Each written consent shall bear the date of signature of each Member who signs the consent and, except as otherwise provided in this Agreement, no written consent shall be effective to take the action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this section to the Company, written consents signed by a sufficient number of Members to take such action are delivered to the office of the Company, its principal place of business or the Manager, employee or agent of the Company having

custody of its records, in each case by hand or by certified or registered mail, return receipt requested.

- (c) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those Members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

3.8 **Meetings by Means of Conference Telephone, Internet Chat or E-Mail.** Unless otherwise provided in the Articles of Organization, the LLC A or this Agreement, Members may participate in a meeting of Members by means of a conference telephone, internet chat, E-mail or similar communications equipment. Such participants shall constitute presence in person at such meeting.

ARTICLE IV **CAPITAL ACCOUNTS**

- 4.1 **Capital Contributions.** The Company shall maintain a cash reserve equal to at least three months' estimated operating expenses as outlined in Article IX. Whenever, as of the end of a calendar quarter, an additional cash contribution is required to restore this reserve, the Manager shall notify the Members by both email and first-class mail of the amount required. All members shall be required to make additional contributions based on the pro rata share of the estimated expenses incurred by the Company, based on estimates as set forth in Section 9.3.
- 4.2 **Priority and Return of Capital.** No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution; provided, however, that this Section shall not apply to any loan or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.
- 4.3 **Liability to the Company.** A Member who or which rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the LLC A. An Interest Holder who or which receives a Distribution made by the Company in violation of this Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for, without limitations, the amount of such Distribution and interest.
- 4.4 **Financial Adjustment.** No Member or any Assignee, shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company prior to said person becoming a Member to said Member's Capital Account. The Manager may, with the consent of the Majority in Interest, at the time a Member is admitted, or an Economic Interest is transferred, close the books and records of the Company (as though the Company's fiscal year had ended) or make pro- rata allocations of loss, income and expense deductions to such Member or Assignee, as the case may be, for that portion of the fiscal year in which such Person was admitted as a Member or became an Assignee (as the case may be) in accordance with the Code.

4.5 **Capital Accounts.**

- (a) A separate Capital Account shall be established and maintained for each Interest Holder. Each Interest Holder's Capital Account (i) shall be increased by the amount of any Net Profits allocated to such Interest Holder hereunder and by any other allocations of income to such Interest Holder pursuant to the Code and, in the case of a Member, by the amount of the Capital Contributions actually paid to (or on behalf of) the Company by such Member, and (ii) shall be decreased by the amount of any Distributions made by the Company to such Interest Holder, by the amount of any Net Losses Allocated (or charged) to such Interest Holder hereunder and by any other allocations of losses to such Interest Holder pursuant to the Code.
- (b) Capital Contributions shall be credited to the Capital Accounts on the date actually paid and Distributions shall be debited (or charged) to the Capital Accounts on the date made. The Net Profits and Net Losses of the Company for any fiscal year or shorter period referred to in subsection (c) below shall be credited or debited, as the case may be, to the Capital Accounts as of the end of such period said Net Profits or Net Losses are incurred.
- (c) The Capital Accounts of the Members shall be determined as of the end of each fiscal year or any other time requested by the Manager. The Capital Accounts of the Members shall also be determined on the date of the dissolution and termination of the Company, and may, at the election of the Manager or a majority of the Members, be determined as of any other date, in each case by applying the allocation provisions of this Agreement as if the portion of the current fiscal year ending on such date were a fiscal year.
- (d) It is intended that the Capital Accounts of the Members shall be determined and maintained throughout the Term of the Company in accordance with, and shall be adjusted as may be required under the Code and the Treasury Regulations promulgated there under. If the Manager determines that is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with the Code and the related Treasury Regulations; the Manager may make such modification, provided that any such modification shall not have any material effect on the economic agreement between or among the Members or on amounts distributable, or the time of making Distributions, to any Members, including amounts to be distributed on liquidation.

4.6 **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring such Membership Interest shall become the Capital Account of the Person to which or whom such Membership Interest is sold or transferred in accordance with Section 1.704-1 (b) (2) (iv) of the Treasury Regulations.

4.7 **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of a Capital Contribution until all indebtedness, liabilities and obligations of the Company, except any indebtedness, liabilities and obligations to Members on account of their Capital Contributions, have been paid or there remains property of the Company, in the sole discretion of the Manager, sufficient to pay them. A Member, irrespective of the nature of

the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

4.8 **Default.**

- (a) **Definition of Default.** A Member shall be considered to be in default when he/she/it does not pay any respective additional capital contribution required by the Manager, within fifteen (15) days of the billing date set by the Manager, in its sole discretion. Moreover, in the event a Member does not pay within ten (10) days after written or e-mail notice of default (or by the 25th day), the Member shall receive written notice, via e-mail, regular mail and certified mail that if the Members does not pay within ten (10) days (or by the 35th day), the Member will forfeit his/her/its entire interest in the LLC including any Capital Account at the time of said Default and all previously paid capital contributions as set forth in this Agreement. Said forfeiture does not release the defaulting member from his liability for any amounts due that are in arrears. Additionally, said member shall be personally and solely liable for any expenses incurred in collecting any amounts due pursuant to this section, including, but not limited to, attorneys fees and court costs.
- (b) **Disposition of the Defaulted Interest.** Upon determination that a Member has defaulted on his/her/its interest in the Company, the Manager shall use his best judgment in selling or disposing of the defaulted interest for the benefit of the membership.

ARTICLE V ALLOCATIONS AND DISTRIBUTIONS

- 5.1 **Allocations of Profits and Losses.** The Net Profits and the Net Losses for each Fiscal Year shall be allocated to each Interest Holder in proportion to their respective Percentage Interests, as adjusted from time to time by the Manager in accordance with this Agreement.
- 5.2 **Distributions.** Except as provided in this Article and in Article IX, all Company funds shall be used by the Company for the purchase of thoroughbred race horses and for payment of reasonable ordinary and necessary operating expenses, including but not limited to trainer fees, trainer and jockey shares of purse earnings, farriers' and veterinarians' bills, expenses incident to the purchase of horses, horse transportation costs, licensing and entry fees, win pictures, reasonable administrative expenses, etc. However, the Manager may from time to time, at the sole discretion of the Manager, make Distributions to Interest Holders entitled thereto. All Distributions shall be made to Interest Holders entitled thereto in proportion to their respective Percentage Interests as of the record date set for such Distribution. Additionally, if, at the conclusion of each calendar year, the Company has earned a taxable profit for the year, as reported on Internal Revenue Service Form 1065, and if the Company's funds provide a reserve of at least three months' estimated operating expenses, the Manager shall distribute to each Member an amount equal to 40% of that Member's estimated pro rata share of profits for the year just concluded, so as to permit the Members to pay taxes on those profits, provided that no

such distribution shall reduce the Company's operating funds below the level of three months' estimated operating expenses. Further, at the discretion of the Manager, the Company shall contribute 1.0% of all purses won to equine and racetrack related charities of the Manager's choice.

- 5.3 **Offset.** The Company may offset all amounts owing to the Company by a Member against any Distribution to be made to such Member or the Capital Account of said Member, regardless of whether such amounts are then due.
- 5.4 **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on such Member's Capital Contribution or to a return of such member's Capital Contribution, except as specifically set forth in this Agreement.
- 5.5 **Fiscal Year.** The fiscal year of the Company shall be the calendar year.

ARTICLE VI **TAXES**

- 6.1 **Tax Returns.** The Manager shall cause to be prepared and filed all necessary federal, state and local income tax returns for the Company. Each Member shall furnish to the Managers all pertinent information in his possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.
- 6.2 **Tax Elections.** The Company, at the sole discretion of the Manager, shall make the following elections on the appropriate tax returns:
- (a) To adopt the calendar year as its fiscal year;
 - (b) To adopt and keep the Company's books and records on the cash method of accounting.
 - (c) If a Distribution as described in Section 734 of the Code occurs or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code:
 - (d) To elect to amortize the organizational expenses of the Company and the startup expenditures of the Company under Section 195 of the Code ratably over a period of sixty (60) months as permitted by Section 709(b) of the Code.
 - (e) If available, to elect to be treated as a partnership for tax purposes; and
 - (f) Any other election that the Manager may deem appropriate.

Neither the Company nor any Member may make an election for the Company to be excluded from the application of Subchapter K of Chapter I of Subtitle A of the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

- 6.3 **Tax Matters Member.** The Manager is designated to be the “Tax Matters Member” of the Company pursuant to the Code. The Manager shall take any action as may be necessary to cause each other Member to become a “notice Member” within the meaning of the Code.

ARTICLE VII **TRANSFER OF INTERESTS**

- 7.1 **General.** Except as set forth in this Agreement, no Member shall give, sell, assign, pledge, hypothecate, encumber, exchange or otherwise transfer to another Person all or any portion of such Member’s Membership Interest or any right appurtenant to such Membership Interest without the prior written consent of a Majority in Interest. The Members understand and agree that the restrictions of transfer of Membership Interests are fair and reasonable.
- 7.2 **Transferee Not a Member.** Notwithstanding anything to the contrary in this Agreement, no Person acquiring Economic Interests pursuant to Article VII, other than a Member, shall become a Member unless such transferee is approved as a Member by the vote or written consent of a Majority in Interest of the Members and such Assignee satisfied all other applicable conditions. The Assignee shall not have the rights of a Member of the Company under the Act or this Agreement (including, without limitation, the right to obtain any information about the Company’s transactions, to inspect the Company’s books or to vote with the Members on, or to grant or withhold consent or approval of, any matter). However, upon written request from the Assignee, the Company shall furnish the Assignee with pertinent tax information at the end of each fiscal year.
- 7.3 **Conditions of Transfer.** In the event a Member desires to transfer and or sell either part or all of his Interest in the Company, he/her/its shall first offer his interest to the other Members of the Company on a pro rata basis for their right of first refusal. If none of the other Members are interested in purchasing all or a part of said Interest within 10 days of notice from the selling or transferring Member, than the selling or transferring Member may offer his interest to a new member, who must be approved by the manager of the Company, which shall not be unreasonably withheld.

However, no transferee of the Interest of the Member shall become substituted and in place and instead of the Selling Member until the following conditions have been satisfied:

- (a) The transferor Member and his transferee shall have executed a written agreement, in form and substance satisfactory to the Company indemnifying and holding the Company harmless from and against any loss or liability arising out of the transfer;
- (b) The transferee shall execute such other documents and instruments as the Company may deem necessary and proper in order to effectuate the admission of the transferee as a new Member;
- (c) The transferee or the transferor shall have paid the expenses incurred by the Company in connection with the admission of the transferee to the Company;
- (d) The transferee shall be willing and able to obtain an appropriate “license” to own and race thoroughbred racehorses.
- (e) Any and all documents and or instruments required in order to permit the transfer of the interest and to be able to operate the Company for the uses and purposes of the formation of this entity.

7.4 **Conditions to Admission of Members.** A person shall not have the right to become a Member unless the following conditions have been satisfied:

- (a) Such Person must be approved as a Member by the Manager;
- (b) Such Person shall have assumed in writing all the terms and provisions of this Agreement and any and all obligations to the Company of the Member whose Interests such Person is acquiring (including without limitation, the obligation to make any capital contributions);
- (c) Such Person shall pay all costs incurred by the Company in connection with the transfer;
- (d) If required by the Manager, such Person shall have furnished an opinion of counsel, satisfactory in form and substance to counsel for the Company, that such transfer complies with applicable federal and state securities laws and this Agreement and that such transfer, for federal income tax purposes, will not cause the termination of the Company under Section 708 of the Code, cause the Company to be treated as an association taxable as a corporation for income tax purposes or otherwise adversely affect the Company or the Members; and
- (e) Such Person and the Member whose Interests such Person is acquiring shall have complied with such other requirements as the Manager may impose.

7.5 **Effectiveness.** Any transfer of Interests or Admission of a Member pursuant to the foregoing provisions of this Agreement shall be deemed effective only as of the last day of the calendar month following satisfaction of all applicable conditions. Any transfer in contravention of this Agreement shall be void and ineffectual and shall not bind the Company or the other Members.

ARTICLE VIII DISSOLUTION

- 8.1 **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:
- (a) The latest date on which the Company is to dissolve, if any as set forth in the Articles of Organization or in this Agreement.
 - (b) The written consent to dissolve of Members holding, in the aggregate, not less than 67% of Percentage Interests of all Members (or such class, classes or group, if any, of Members as may be entitled to vote on, consent to, or otherwise participate in, any decision or action).
 - (c) The entry of a decree of judicial dissolution pursuant to applicable law.
- 8.2 **Winding Up.** Upon the dissolution of the Company, the Manager may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. For purposes of this Section, the Manager's good-faith determination of the value of the Company's assets shall be conclusive. Upon winding up the Company, the assets shall be distributed as follows:
- (a) To creditors, including any Member who is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distribution to Members under Section 507 or Section 509 of the LLCA; then
 - (b) To Members and former Members in satisfaction of liabilities for distributions under the appropriate Section(s) of the LLCA; then
 - (c) To Members for the return of their Capital Contributions, to the extent not previously returned; and then
 - (d) To Interest Holders in proportion to their respective Percentage Interests.
- 8.3 **Articles of Dissolution.** Within ninety days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles of dissolution shall be filed with the Secretary of State of the State of Illinois pursuant to applicable law.
- 8.4 **Deficit Capital Account.** Upon a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a "deficit capital account" (after giving effect to all contributions, distributions, allocations and other adjustments for all fiscal years, including the fiscal year in which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital

Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose, except as provided herein by this Agreement.

- 8.5 **No Recourse to Other Members.** Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each Member shall receive a return of his, her or its Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against any other Member or the Manager or the Company for any reason whatsoever.
- 8.6 **Termination.** Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE IX **INITIAL CONTRIBUTIONS AND MANAGER COMPENSATION**

- 9.1 **Initial Capital Contributions.** The initial capital investment covers all startup organizational expenses, the purchase/claim of all initial equine interests and provides for at least a three month estimated reserve for all ordinary training/vet expenses for the initial equine purchases/claims.
- 9.2 **Compensation to the Manager.** For Managing and establishing the Company, the Manager shall be credited with a five percent (5%) capital interest and shall receive the following additional incentive payments:
- (a) The Manager will receive five percent (5%) of all gross purses earned by the Company's horses. With respect to each horse owned by the Company, the Manager shall receive ten percent (10%) of any gross purses earned by the horse in excess of \$100,000. These percentage incentives shall also apply to any state owner awards paid directly to the Company.
- 9.3 **Estimated Cost Of Operations.**
- (a) The estimated monthly expense for each horse in training will be approximately \$2500.00. This rate will fluctuate with each horse, depending upon health and soundness. This rate may change from time to time and will vary in other locations, circuits, or with other trainers.
 - (b) Mortality insurance costs are not included in the monthly expense estimates. The Company will purchase a mortality insurance policy on a case-by-case basis at the discretion of the Manager. Mortality insurance costs range from 4.2% to 5.5% of the auction or purchase

price depending on prevailing rates, age, and sex. The Company does not purchase performance insurance on the horse. The Company may purchase surgical insurance for the horse.

- (c) In the case of the horse running in a stakes race (or certain other necessary cases as decided by the Manager) held away from the current stabling location, the Manager shall receive two coach class airfare tickets and hotel accommodations paid for by the Company's operating account.
- (d) The Company shall also pay the trainer a percentage of all purse earnings and pay bonuses to grooms and other stables hands as deemed appropriate by the Manager. Jockeys are paid according to a fee schedule set forth by the Jockey Guild. Many states also access fees from purse earnings for jockey medical insurance, backstretch benevolent trusts, etc. All pony to post and stable hand charges shall be paid out of the Company's account.

ARTICLE X **RISK AND REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

10.1 Risks and Representations and Warranties.

- (a) Each person or organization signing this Agreement, hereby represents and warrants that he/she is able to, either alone or together with his advisors, independently evaluate the risks of an investment in the Company. The Manager, Michael B. Faber, shall be the initial manager of this Company. Michael B. Faber shall receive compensation from this LLC as outlined in Article IX, Section 9.2.
- (b) **Thoroughbred Racehorse Ownership.** The business of the Company is the ownership breeding, racing and training of thoroughbred racehorse(s). Thoroughbred racehorse ownership is a highly speculative and extremely risky activity. There is high probability that any person investing in the Company may lose all or a significant portion of his/her investment in the Company in a very short period of time and that the Company may fail completely in its objectives and goals. Further, all persons signing this Agreement understand and accept that it is not possible to predict the performance of thoroughbreds in any way whatsoever and therefore any horse purchased by the Company may be a complete failure or die or become ill at any time. There can be no assurance that the business of the Company can or will be successful and will not partially or totally fail and that the Member's entire interest may be lost.

(c) Other Representations and Warranties. Except for the specific written representations and Warranties expressly made in writing in this Agreement by the Company, each person signing this Agreement acknowledges and agrees to the following at the time of the signing of this Agreement:

- 1) No person(s) or organization(s) or the Manager or the Company or any other person or organization of any kind or nature whatsoever has made any representation or warranty or guarantee or promise of any kind or nature whatsoever associated in any way whatsoever with the Company or its business or its Manager or employees or advisors or agents;
- 2) All parties to this Agreement have read this Agreement in its entirety and understand and accept the fact that the business of the Company is highly speculative and risky and further that they may lose all or a portion of their investment in the Company at any time.

ARTICLE XI **MISCELLANEOUS**

- 11.1 **Licensing.** All Members of this Company hereby specifically acknowledge and understand that they may be required to obtain and renew each year a license from any state in which the Company's horse races, at the Member's sole cost and expense. This licensing would apply only in the states that the horse is expected to participate.
- 11.2 **Specific Performance.** The obligations of the parties hereunder shall be enforceable in a court of competent jurisdiction by a decree of specific performance and appropriate injunctive relief may be applied for and granted in connection therewith. Such remedy, and all other remedies provided for in this Agreement shall, however, be cumulative and not exclusive, and, accordingly, shall be in addition to any other remedy which any party may have under this Agreement or otherwise, or under applicable law.
- 11.3 **Arbitration.** In the event of any dispute of any nature whatsoever in any way relating to the Company or this shall be arbitrated in Cook County, Illinois, in accordance with the Commercial Arbitration of the American Arbitration Association's Illinois office (AAA) that are applicable, as established by the American Arbitration Association, and the decision resulting from such arbitration shall be final and binding on all parties.
- 11.4 **Indemnification: Third Party Actions.** The Company shall indemnify and hold harmless any Member and the Manager and any officer or agent of the Manager who is or was a party, or who is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including all appeals, by reason of the fact that he/she/it is or was a Member, Manager, Managing Member or employee of the Company, or is or was serving at the request of the Company as a director, trustee, officer or employee of another limited liability Company, corporation, partnership, joint

venture, trust or other enterprise against any and all expenses (including reasonable attorneys' fees) judgments, decrees, fines, penalties and amounts paid in settlement, which were actually and reasonably incurred by him/her/it in connection with such action, suit or proceeding, if he/she/it him/her/it acted in good faith and with respect to any criminal action or proceeding, he/she/it had no reasonable cause to believe his/her/its conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or plea of Nolo contendere or its equivalent shall not, of itself, create a presumption that the person or entity did not act in good faith and in a manner which he/she/it reasonably believed to be in, or at least not opposed to, the best interests of the Company.

- 11.5 **Derivative Actions.** The Company shall indemnify and hold harmless any Member and the Manager and any officer or agent of the Manager who is or was a party, or who is threatened to be made a party, to any threatened, pending or completed action or suit, including all appeals, by or on behalf of the Company in order to procure a judgment in its favor by reason of the fact that he/she/it is or was a Member of the Company or is or was serving at the request of the Company as a Manager, against any and all expenses (including reasonable attorney's fees) which were actually and reasonably incurred by him/her/it in connection with the defense or settlement of such action or suit, so long as he/she/it acted in good faith except that no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been finally adjudged to be liable for gross negligence or willful misconduct in the performance of his/her/its duty to the Company unless, and only to the extent that, the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability and in view of all the circumstances of the case, such person or entity is fairly and reasonable entitled to indemnification for such expenses as the court shall deem proper.
- 11.6 **Cross Indemnification of Members.** Each of the Members (the "Indemnifying Member") shall indemnify any other Member (the "Indemnified Member") of the Company who is or was a party, or who is threatened to be made a party, to any threatened, pending or completed action or suit, including all appeals, which arise from the conduct of the business of the Indemnifying Member against any and all expenses (including reasonable attorney's fees) which were actually and reasonably incurred by him/her/it in connection with the defense or settlement of such action or suit.
- 11.7 **Rights After Successful Defense.** To the extent that a Member or Manager has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in this Sections, or in defense of any claim, issue or matter therein, he/she/it shall be indemnified against expenses (including reasonable attorneys' fees) actually and reasonably incurred by him/her/it in connection therewith.
- 11.8 **Sale of Assets.** A Majority in Interest of Members shall be required to approve the sale, lease, exchange or other disposition of all or substantially all of the non-equine assets of the Company.
- 11.9 **Notices.** All notices, requests, consents and other communications which are required or may be given pursuant to the terms of this Agreement shall be in writing and shall be sent by

telecopier, national overnight courier service or certified mail, return receipt requested, with postage prepaid, to the addresses set forth in the preamble to this Agreement, or such other address or addresses as a party shall have designated by notice to the other parties in writing.

- 11.10 **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois.
- 11.11 **Entire Agreement.** This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, between the parties hereto with respect to the subject matter hereof.
- 11.12 **Amendments.** This Agreement may be modified by written agreement signed by the Manager and a Majority in Interest so long as it does not take away the rights of any other Member. Without limiting the foregoing, no course of conduct or oral agreement among the Members or usage of trade, in each case whether or not relied or acted on, shall amend this Agreement or otherwise affect any Member's obligations under this Agreement or any Member's right and remedies hereunder.
- 11.13 **Assign ability.** Except as provided in this Agreement, no party may assign this Agreement, or any right or obligation hereunder.
- 11.14 **Gender, Etc.** The neuter gender hereunder shall be deemed to include the masculine and feminine whenever necessary or appropriate, the masculine to include the feminine, the singular to include the plural, and vice versa.
- 11.15 **Waiver.** No delay or failure by any party to exercise any right or remedy under this Agreement, and no partial or single exercise of that right or remedy, shall constitute a waiver of that or any other right or remedy. No waiver of any right or remedy hereunder shall be effective unless in writing specifically referring to each such right or remedy being waived.
- 11.16 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall attach only to such provision and shall not in any manner affect or render invalid or unenforceable any other severable provision of this Agreement, and this Agreement shall be carried out as if any such invalid or unenforceable provision were not contained herein.
- 11.17 **Headings.** The section headings contained herein are for the purpose of convenience only and are not intended to define or limit the contents of said sections.
- 11.18 **Further Assurances.** Each party hereto shall cooperate and shall take such other action and shall execute and deliver such further documents as may be reasonably requested by any other party in order to carry out the provisions and purposes of this Agreement. Each party hereto covenants to act in good faith in fulfilling its obligations hereunder and to deal fairly with the others during the term of this Agreement.

11.19 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. This agreement may also be executed by Fax.

11.20 **Dare To Dream Stable #23 LLC Logos And Marks.** All horses will run under the colors and name of Dare To Dream Stable LLC or derivatives thereof. It is specifically acknowledged that the logos, marks and name of Dare To Dream Stable LLC are the property of Michael B. Faber and are used under a License Agreement between Dare To Dream Stable LLC and Michael B. Faber executed on May 1, 2002.