

2/19/15

02/25/2015

Form PTO-1594 (Rev. 12-11)
OMB Collection 0651-0027 (exp. 04/30/201



U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RE

103671484

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

Soludos LLC

- Individual(s)
- Partnership
- Corporation- State: DELAWARE
- Other LIMITED LIABILITY COMPANY
- Association
- Limited Partnership

Citizenship (see guidelines) _____

Additional names of conveying parties attached? Yes No

3. Nature of conveyance/Execution Date(s) :

Execution Date(s) December 1, 2014

- Assignment
- Security Agreement
- Other _____
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Merchant Factors Corp.

Street Address: 1441 Broadway - 22nd Floor

City: New York

State: New York

Country: USA Zip: 10018

- Individual(s) Citizenship _____
- Association Citizenship _____
- Partnership Citizenship _____
- Limited Partnership Citizenship _____
- Corporation Citizenship New York
- Other _____ Citizenship _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s) _____ Text _____

B. Trademark Registration No. (s)

3891466

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Gavin C. Grusd

Internal Address: _____

Street Address: 100 Jericho Quadrangle-Suite 300

City: Jericho

State: New York Zip: 11753

Phone Number: (516) 479-6300

Docket Number: _____

Email Address: ggrusd@sallp.com

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$40.00

- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

03/12/2015 KNGUYEN1 00000009 3891466
Deposit Account Number See attached Credit

Authorized User Name Card Authorization 40.00 OP

9. Signature:

Gavin C. Grusd
Signature
Gavin C. Grusd

2/19/15
Date

Total number of pages including cover sheet, attachments, and document: 40

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to: Mail Stop Assignment Recordation Branch, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

**MERCHANT
FACTORS
CORP.**



1441 Broadway, 22nd Floor
New York, NY 10018
Tel: (212)840-7575 Fax: (212)869-1752
www.merohantfactors.com

Dated: November ~~1~~, 2013

DISCOUNT FACTORING AGREEMENT *December 1*

Soludos LLC
580 Broadway
Suite 1001
New York, NY 10012

Ladies and Gentlemen:

In this Agreement Soludos LLC shall hereinafter be referred to as "you" and/ or "Debtor", and Merchant Factors Corp. shall hereinafter be referred to as "we" and/ or "Secured Party".

We are pleased to confirm the terms and conditions on which we shall act as your sole Factor.

1. **Purchase of Receivables.** You hereby agree to sell and assign to us, and we agree to purchase as absolute owner from you, all receivables (collectively, "Receivables," or individually, a "Receivable," which term shall include rights to reclamation, stoppage in transit and insurance policies relating to the merchandise covered thereby) arising from your sales of inventory or rendition of services, whether now existing or hereafter arising, including any proceeds thereof. Each Receivable shall be purchased by us for a purchase price equal to the gross amount thereof, less our commission as provided in Section 3 hereof, trade and cash discounts allowable to, or taken by, your customers, credits, cash on account and allowances ("Purchase Price"). The Purchase Price of Receivables purchased by us shall be credited to your account with us promptly following the assignment thereof. In the event that you receive any proceeds of any Receivables, you hereby agree to deliver such proceeds promptly to us in the form received. No checks, drafts or other instruments received by us shall constitute final payment of a Receivable unless and until such items have actually been collected by us.

2. **Credit Approval.** You may submit to us requests for credit approval of purchase orders at any time prior to shipment. Credit approvals shall be effective only if given by us in writing and only where shipments are made in compliance with the terms of the approved purchase order, within 30 days from the delivery dates specified or within 30 days from the date of our approval if no performance or delivery date is specified, whichever is earliest. In addition, approvals shall only be effective if invoices are assigned to us in accordance with the provisions of paragraph 7 herein. We shall have the right to limit any credit approval or withdraw any credit approval at any time before physical delivery is made or services are rendered and shall not have any liability to you for

declining, withholding, limiting or withdrawing any credit approval. We shall assume the Credit Risk on each Receivable which has been approved by us and shipped in accordance with such approval; provided, however, that all invoices in the amount of \$200.00 or less shall be with full recourse to you regardless whether we shall have approved the related purchase order. For the purposes hereof, "Credit Risk" means the risk that a Receivable will not be collected when due on its longest maturity date solely because of the customer's financial inability to pay and not because of a dispute with the customer or any other reason. Receivables as to which we have assumed the Credit Risk are herein called "Factor Risk Receivables." Receivables as to which you bear some of or all the Credit Risk are herein called "Client Risk Receivables." Client Risk Receivables and invoices covering sample shipments shall be assigned to us with full recourse to you. If there is any change in the amount, terms, or shipping or delivery date of any Factor Risk Receivable (other than accepting returns and granting allowances as provided in Paragraph 8 below), you must submit a change of terms request to us, and we shall then advise you of our decision either to retain the Credit Risk or to withdraw the credit approval of such Receivable. The uncollected amount of any Factor Risk Receivable shall be credited to your account 120 days from the due date of such Factor Risk Receivable.

3. Commissions. For our services hereunder, we shall charge you a commission ("Commission"), calculated as hereinafter provided, on each Receivable arising in your business, including both Factor Risk Receivables and Client Risk Receivables, regardless whether you shall have executed a specific instrument of assignment, other than Receivables which arise from deliveries against payment in cash or authorized credit card charge. Such Commissions shall be debited to your account with us as of the 15th day of each "Contract Month" (ending on the same day of the month as the date hereof) with respect to the aggregate amount of Receivables, other than as aforesaid, arising during the immediately prior calendar month. The Commissions on Receivables shall be equal to the following: (i) .80% of the gross invoice amount thereof, except that (ii), in the case of Receivables from customers listed on our "Schedule of Surcharged Commissions," as amended or supplemented from time to time, the percentage of the gross invoice amount thereof set forth on the aforesaid Schedule of Surcharged Commissions, plus in either case (iii), in the event that, with our prior written approval, you have granted selling terms exceeding ninety (90) days with regard to any Receivable (whether as originally stated or as the result of a change of terms), an additional amount equal to 1/4 of 1% of the gross invoice price thereof for each additional 30 days or fraction thereof so granted by you; provided, however, that in no event shall the commission on any invoice be less than \$1.50 EDI and \$3.50 on non EDI. The minimum aggregate commissions, exclusive of surcharged commissions referred to above, payable under the Agreement shall be \$10,000.00 for the 1st year, and \$15,000.00 for each year thereafter, commencing on:

- (a) the first day of the month during which this contract is signed by both parties, if such signing is prior to the 16th day of the month; or
- (b) the first day of the month following the month during which this contract is signed by both parties, if such signing is on or after the 16th of the month. In all cases in computing minimum commission, surcharged commissions shall be excluded. In the event that we terminate this Agreement prior to the anniversary date, the annual minimum commission shall be prorated from the beginning of the contract year to the date of termination. In addition, you shall pay us a one-time documentation and set-up fee of \$1,500.00.

4. Advances. At your request, but in our sole discretion in each instance, we may make advances to you against the Purchase Price of Factor Risk Receivables, in an amount not

exceeding 80% A/R and 35% of Inventory, capped at \$1,000,000.00 of the amount thereof ("Advance Percentage"), subject to our right to retain a reasonable amount of such Purchase Price as a reserve to cover, among other things, customers' returns, allowances, deductions and disputes in the future, and as security for the payment of all your Obligations. Amounts owing to us in respect of your purchases from other persons, firms or corporations factored by us or our Re-Factor (as hereinafter defined) or any Affiliate of ourselves or our Re-Factor shall be considered to be Advances against your account with us and may be charged against such account at any time whether before or after the maturity of such amounts. Any federal, state or local sales, excise or other taxes on any sales or Receivables hereunder shall be paid by you, and if we make any payment thereof, such payment shall be considered an Advance hereunder. As used herein, "Obligations" means all loans, advances and debt balances owing to us by you or any Affiliate of yours (whether or not evidenced by any note of other instrument) now existing or hereafter arising, including expenses and attorneys' fees, and "Affiliate" of any person means any person controlling, controlled by or under common control with such person. The charge for wire transfers to your bank account or other parties as directed by you shall be \$25.00 each. In the event that charge is increased we will give you 30 days prior notice in writing.

5. **Interest on Obligations.** All Obligations shall be payable by you to us on demand and shall bear interest, payable monthly on the average daily balance of amounts advanced or charged to you hereunder, at the rate ("Effective Rate") per annum (based on a 360 day year) of 2.75% in excess of the prime commercial interest rate as published in the Money Rates section of the Wall Street Journal (Eastern Edition) from time to time as the "Prime rate". Each change in such fluctuating interest rate shall take effect simultaneously with the corresponding change in the Prime Rate. If more than one such Prime Rate is published, the highest prime Rate shall be applicable. If the Wall Street Journal ceases to be published or goes on strike or is otherwise not published for any period of time or if it ceases to publish a Prime Rate, then Lender shall in its reasonable discretion utilize any similar published prime or base rate of interest utilized for Obligations comparable to these Obligations; provided, however, that in the event the amount owing to us shall at any time exceed the Advance Percentage of aggregate Factor Risk Receivables, you agree to pay us, as additional compensation, interest at the rate which is 2% per annum above the Effective Rate until the time as the Advance Percentage is no longer being exceeded. Whenever the Prime Rate is changed, an equal change shall be made in the Effective Rate simultaneously with such change in the Prime Rate. In no event, however, shall the Effective Rate be less than 6% per annum (based on a 360 day year) nor shall the rate of interest payable hereunder be more than the maximum rate of interest permitted to be charged under applicable law. Any excess amount of interest paid shall deemed to be a payment of principal otherwise due hereunder. In computing interest payable hereunder, amounts received by us for your account shall be credited thereto three (3) business days following our receipt thereof to allow for the collection of checks and other instruments.

6. **Expenses.** You agree to reimburse us, upon demand, for all costs, expenses and disbursements which we may incur hereunder or with respect to loans, advances or collateral, collecting Client Risk Receivables or perfecting, protecting, enforcing, realizing upon or administering our rights hereunder. Such disbursements shall include the expenses of field exams not to exceed \$850/day or \$6,000.00 per contract year (which shall include a reasonable fee for the time expended in connection therewith by the person or persons making any such field exam, whether or not any such person is in our regular employ), appraisals, credit information, bank charges for letters of credit, verifications, searches, filings, recordings, retaking, holding or preparing for sale any goods purported to be included in the collateral, taxes relating to the foregoing, finishing otherwise finished inventory which may be purported to be included in the

collateral, selling, leasing, settling or otherwise realizing upon all or any part of the collateral, postage, telephone, any charges in the nature of use and occupancy or rental we may incur for any premises where all or any part of the collateral may be, and attorneys' fees and disbursements incurred in connection with transactions and in enforcing or protecting our rights hereunder.

7. Invoicing. You shall place a notice satisfactory to us on each invoice that the related Receivable has been sold and assigned and is payable only to us or our Re-Factor, and to take all necessary steps so that payments and remittance information are directed to us, which placement of notice shall constitute an assignment of such Receivable to us whether or not you execute any specific instrument of assignment. All invoices shall be promptly mailed or otherwise transmitted by you to your customers at your expense; provided, however, that we shall have the right at any time, in our sole discretion, to take over the mailing of invoices to your customers, in which case you shall furnish us with the original and duplicates of such invoices, the originals to be mailed by us to your customer at your expense. You shall also provide us with copies of all invoices (or the equivalent for electronic invoices), at the same time as they are submitted to your customers, but in any event not later than 15 days from date of shipment, together with confirmation of the sale of Receivables to us and proof of shipment or delivery, all as we may reasonably request, except that if we request you to transmit invoices to us electronically or by a sales register, such electronic transfer or sales register shall be evidenced or accompanied by a signed assignment schedule on a form satisfactory to us and you shall retain copies of such invoices for not less than six years thereafter. You shall execute and deliver to us, from time to time, written schedules of all Receivables sold or assigned by you (identifying which are Factor Risk Receivables and which are Client Risk Receivables) in form satisfactory to us; provided, however, that any failure to execute or deliver any such schedule and/or any assignment shall not affect our security interest or other rights to such Receivables.

8. Returns; Changes; Disputes. You agree to notify us immediately upon each instance of (i) the return, rejection, loss of or damage to merchandise covered by any Receivable, (ii) any request for extension of time to pay or request for credit or adjustment, (iii) any merchandise dispute or other dispute or claim relating to any Receivable or to the merchandise or services covered thereby, or (iv) any other facts or circumstances with respect to any Receivable which tend in any way to diminish the sum certain payable thereon. If any such dispute, controversy or claim is not wholly adjusted within 60 days after it arises or if security, satisfactory to us, is not substituted by you within the same time and accepted by us, we may elect, in our sole discretion, to settle, compromise, adjust or otherwise enforce or dispose of by litigation or otherwise, any such dispute, controversy or claim, at your expense, and upon such terms and conditions as we in our sole discretion shall deem proper. We shall also have the right, in our sole discretion, to charge back to you at any time any items which are subject to any such dispute, controversy or claim or as to which you shall fail to provide us with copies of any related invoices or proofs when requested by us, we shall not thereafter bear any Credit Risk as to the related Receivables, but shall otherwise continue to hold all our rights thereto. You shall indemnify us against any liability, loss or expense caused by any such dispute, controversy or claim other than failure to pay solely because of a customer's financial inability to pay, as provided in Section 2 hereof, (whether or not such dispute, controversy or claim relate to the specified receivable) You agree that you shall not grant any material allowances, credits or adjustments to customers, re-date any invoice or accept any return of merchandise, without advance notification to us and our prior written consent in each instance. You shall furnish to us promptly with a copy of each credit memorandum issued to any customer (and shall not furnish any such copy to anyone else), it being understood that our Commission, as originally computed, shall not be reduced because of any such credit. If any merchandise from the sale of which any Receivable arises shall be returned by or recovered from your customer, you

shall forthwith pay us the full amount of the related Receivable, either in cash or by the assignment of new Receivables hereunder, and until such payment, the merchandise returned or recovered shall be segregated and identified by you as property held in trust for our benefit, and upon our request, you shall, at your expense, deliver the same to us or for our account or upon our order to such place or places as we may designate. We may sell any such returned or recovered merchandise, at such prices and upon such terms as we may deem proper, and in the event of any public sale thereof, we may be the purchaser. The proceeds of any such sale or sales shall first be charged with the costs and expenses, including reasonable attorneys' fees, of and incident to such sale, and the balance, if any, shall be credited to your account with us.

9. **Security Interest.** As security for the payment and performance of all obligations at any time owing by Debtor to Secured Party, Debtor hereby grants, and Secured Party shall have, a first priority continuing security interest in the following and all proceeds, products and accessions, if any, and all goods, instruments, documents of title, policies and certificates of insurance, except for items specified in paragraph (c) below subject to other liens in which Secured Party would have a second priority continuing security interest, (hereinafter called the "Collateral"):

- (a) (i) All presently existing and hereafter arising accounts and whether or not sold hereunder, contract rights, and all other forms of obligations arising out of the sale or lease of goods or the rendition of services, whether or not earned by performance and any and all credit insurance, guarantees, and security therefor, as well as all returned or reclaimed merchandise related to any of the foregoing; deposit accounts, commercial tort claims; letter of credit rights; electronic chattel paper and license fees (hereinafter referred to as "Accounts"); and
- (ii) All sums at any time standing to Debtor's credit on the books of any Affiliate, and all property in the possession of any Affiliate or on which it has a lien or security interest; and
- (iii) All books and records relating to any of the foregoing including ledgers, records indicating, summarizing or evidencing Debtor's assets or liabilities, or the collateral; all information relating to Debtor's business operations or financial condition; and all computer programs, disk or tape files, printouts, runs or other computer prepared information, and the equipment containing such information; any money, deposit accounts, or assets of Debtor which hereafter come into Secured Party's possession, custody or control (hereinafter referred to as "Books and Records"); and
- (b) All present and future inventory, including goods held for sale or lease or to be furnished under a contract of service, and all present and future raw materials, work in process, finished goods and packing and shipping materials, wherever located, and any documents of title representing any of the foregoing (hereinafter referred to as "Inventory"); and
- (c) All present and hereafter acquired machinery, machine tools, motors, equipment, furniture, furnishings, fixtures, motor vehicles, tools, parts, dies, jugs, goods and any interest in the foregoing and all attachments, accessories, accessions, replacements, substitutions, additions and improvements to the foregoing (wherever located) not subject to liens to any party other than the Secured Creditors referred to herein, and hereinafter referred to as "Equipment"; and

- (d) Present and future general intangibles and other personal property (including choses or things in action, goodwill, patents, trade names, trademarks, service marks, blueprints, drawings, purchase orders, customer lists, monies, due or recoverable from pension funds, route lists, infringement claims, computer programs, computer discs, computer tapes, literature, reports, catalogs, deposit accounts, insurance premium rebates, tax refunds, and tax refund claims, all present and future letters of credit, notes, drafts, instruments, documents, leases and chattel paper (hereinafter referred to as "Intangibles").

Debtor authorizes Secured Party to file and record all financing statements and other documents and instruments which Secured Party may request to perfect the security interests granted hereunder and hereby authorizes Secured Party to execute and file alone any such financing statements with respect to such security interest(s). Secured Party shall not be required to seek repayment of Debtor's Obligations to Secured Party through the liquidation of property in which we hold a security interest and Debtor shall at all times remain liable for the repayment on demand of all such Obligations.

10. Protection of Collateral

a. The principal and other places of business of Debtor, the books and records relating to the Collateral and the Collateral are and shall remain located at the addresses set forth below and Debtor will not change any of the same without prior written notice to and consent of Secured Party.

b. Debtor will immediately advise Secured Party in writing of any opening of any new place of business.

c. Debtor will pay when due all taxes, license fees and assessments relating to the Collateral.

d. Debtor will use the Collateral for lawful purposes only, with all reasonable care and caution and in conformity with all applicable laws, ordinances and regulations.

e. Debtor will at all times keep the Collateral in first class condition, excepting any loss, damage, or destruction which is fully covered by proceeds of insurance.

f. Debtor shall insure the Collateral until Secured Party's security interest is terminated against all risks to which it is exposed, including loss, damage, fire, theft, and all other such risks, in such amounts, with such companies, under such policies and in such form as shall be satisfactory to Secured Party, which policies shall provide that loss thereunder shall be payable to Secured Party as its interests may appear (upon a New York standard mortgagee clause [long form]), and Secured Party may apply any proceeds of such insurance which may be received by it for payment of the Liabilities, whether or not due, in such order of application as Secured Party may determine, and such policies or certificates thereon or duplicates thereof shall immediately be deposited with Secured Party.

g. The Collateral is and shall be maintained as personal property and shall not, by reason of attachment or connection to any realty, either become or be deemed to be a fixture or appurtenance to such realty, and shall at all times be severable therefrom without material damage to the realty.

11. Books and Records. You agree to maintain, at your expense, proper books and records in accordance with generally accepted accounting principles and in a form acceptable to us. All such statements and information shall fairly present your financial condition as of the dates, and the results of your operations for the period, for which the same are furnished. We shall have the right to inspect and make extracts from such books and all of your files, records and correspondence at all reasonable times. You shall furnish us with balance sheets, statements of profit and loss, interim financial statements and such other information regarding your business and financial affairs as we may from time to time reasonably request, including reviewed financial statements

within 120 days after the end of each fiscal year, prepared by certified public accountants acceptable to us.

12. Monthly Account. We shall make available to you by mail or online, at our option, a monthly account current as of the last day of the preceding month. You agree to view each month's statement online at www.merchfact.com, by using your assigned username and password. Each monthly account statement shall be considered correct unless, within 45 days after the last day of the month, you deliver to us written notice of any objections which you may have to such account, provided, however, that you waive any right of presentment and protest to which you might otherwise be entitled. In that event, only those items expressly objected to in such notice shall be deemed to be disputed by you. Subject to the foregoing, our books and records will be admissible in any action between us as prima facie evidence of the status of the account between us.

13. Re-Factoring. You acknowledge that, from time to time, we may reassign and resell the Receivables to another factor designated by us, or another business entity providing similar services (collectively, the "Re-Factor"), as we in our sole discretion may determine, and without notice to you. Wherever herein "we," "our" or "us" are referred to, such reference shall include the Re-Factor, which shall have all the rights and remedies, and be entitled to rely to the same extent as are we, acting jointly and/or severally with us or through us acting as its agent, on all the representations, warranties, covenants, waivers and indemnifications which made, granted or entered into by you for our benefit herein. The aforesaid rights and remedies of the Re-Factor shall include (i) the right to have invoices marked as payable to the Re-Factor, (ii) the power to sign payment and security instruments as your attorney-in-fact, (iii) right to be reimbursed by you for its expenses, and (iv) rights to file UCC financing statements and to deal with our collateral in the case of an Event of Default (as defined in Section 17 hereof). You agree to send to the Re-Factor at its request copies of all documents and information which you are required hereby to send to us and shall execute such documents as the Re-Factor may deem appropriate to confirm or enforce any of its rights hereunder provided however that the Re-Factor shall not have any liability to you on account of any re-factoring to the Re-Factor hereunder and you shall look solely to us for the enforcement of your rights under this Agreement.

14. Power of Attorney. You hereby appoint us or our designee as your attorney-in-fact, and ratify and approve all our acts as such attorney-in-fact, to endorse your name on any checks (including, without limitation, checks from customers), notes, acceptances, money orders, drafts or other forms of payment or security that may come into our possession and to sign your name on any invoice or bill of lading relating to any Receivables and on drafts against customers, schedules and assignments of Receivables, notices of assignment, financing statements and other public records, verifications of accounts and notices to customers and, in the Event of Default, to direct all mail to be delivered to our office with full authority to open same and effectuate our rights under this Agreement. This is a power coupled with an interest and as such is irrevocable until all Obligations of you to us have been fully satisfied.

15. Representations, Warranties and Covenants. You hereby represent and warrant that each Receivable assigned to us shall cover a bona fide sale and delivery of merchandise or rendition of services by you to your customers in the ordinary course of business; relate to merchandise or services which have been accepted by your customers to your knowledge without dispute; be payable in accordance with the terms of related invoice; and be absolutely enforceable against your customers free and clear of any lien, encumbrance or dispute, and at the time of assignment of such Receivable to us you shall not be aware of anything detrimental to your

customer's credit. You further represent and warrant that your legal name and address are as set forth herein; that such address is your chief place of business where your records relating to Receivables are kept; you are a duly organized and validly existing business entity organized under the laws of the State of Delaware, and are qualified to do business in all states where required; the most recent financial statements provided by you to us accurately reflect your financial condition as of that date and there has been no material adverse change in your financial condition since the date of such financial statements. You covenant and agree not to change your mailing address, chief place of business, or office where your records relating to Receivables are kept without giving us prior written notice thereof; to furnish us with such information concerning your business affairs and financial condition as we may reasonably request from time to time, including financial statements as of the end of each fiscal year; to hold in trust for our benefit any remittances received directly by you and immediately to deliver to you the identical checks, documents, instruments or moneys received in the same form as received by you; and to comply with all applicable tax laws. You consent to our use of a lockbox account for the deposit of remittances received in payment of Receivables and acknowledge that you are not authorized or entitled to pledge our credit to any person for any purpose whatsoever.

16. **Term and Termination.** We shall have the right to terminate this Agreement at any time upon not less than thirty (30) days prior written notice. This Agreement shall have an initial term of one year, ending on the first anniversary of the date hereof, and shall be automatically renewed for successive one-year periods unless you give us not less than 90-days prior written notice, by certified mail, return receipt requested, of your determination that this Agreement should not be so renewed. If, for any reason, you request us to terminate this Agreement other than upon 90-days prior written notice as aforesaid (but in no event upon less than 30-days prior written notice), then you agree to pay us an early termination fee equal, for each month remaining in the current term hereof (prorated for any fraction of a month), to two times the average monthly amount of interest and commission which you paid us during the shorter of (i) the year prior to your designated termination date, and (ii) the period beginning on the date hereof and ending on such termination date. Notwithstanding any termination hereof, we shall retain our security interest in, and title to, all existing and future Receivables and other collateral held by us hereunder until all the Obligations owed by you to us shall have been fully paid, and until such time you agree to continue to assign all Receivables, to turn over all collections, to us without any obligation on our part to make further advances to you. In addition, you agree that in the event of any release of our security interest in, and title to, any collateral held by us hereunder at such time as all the Obligations owed by you to us shall have been fully paid, such release shall constitute a general release by you of us and each of our affiliates, shareholders, directors, officers, successors, assigns, agents and representatives (in such capacity, collectively the "Releasees"), from all causes of action, controversies, agreements, promises, damages, claims and demands whatsoever in law or equity against any of the Releasees, which either you or your affiliates, shareholders, directors, officers, successors, assigns, agents, representatives, heirs, executors or administrators ever had, now have or hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever occurring on or prior to the date of such release of our security interest in, and title to, any collateral held by us hereunder.

17. **Events of Default.** Each of the following events shall be an "Event of Default" hereunder: (i) you shall fail to pay, when due, any Obligation owing from you to us or shall fail to make any other remittance to us required by this Agreement; or (ii) you shall fail to deliver to us a copy of your annual financial statements reviewed and approved by your certified public accountants within 120 days following the last day of your fiscal year; or (iii) you shall fail to assign to us hereunder each Receivable (except declines, CODs and credit card shipments) arising

from your sales of inventory or rendition of services, whether now existing or hereafter arising, including any proceeds thereof; or (iv) you shall fail to deliver to us promptly any proceeds of any Receivables received by you; or (v) you shall commit any other material breach of this Agreement, as amended or supplemented, or any other agreement to which you or any Affiliate of yours is a party or by which such person or its property is bound (including failure timely to deliver to us your reviewed annual financial statements); or (vi) any of your representations or warranties herein shall be materially incorrect; or (vii) any other event shall occur which might, in our opinion, have a material adverse effect on your financial or business condition, operations or prospects or otherwise cause us to deem ourselves insecure; or (viii) a petition in bankruptcy or for reorganization shall be filed by or against you or any guarantor ("Guarantor") for our benefit of any Obligations, or (ix) you or any Guarantor shall (A) become insolvent; (B) be unable to repay its respective debts as they mature; (C) make an assignment for the benefit of creditors; (D) call a meeting of creditors for a composition of debts; (E) make any misrepresentation to us in connection with this Agreement, or any transaction relating thereto; or (F) make any misrepresentation or fail to make any payment due to any Affiliate.

18. **Remedies.** Upon the occurrence of an Event of Default, (i) the Effective Rate provided for in Section 5 hereof shall be increased by 3% per annum (subject to the legal maximum), and (ii) we shall have all the rights and remedies of a secured party under the Uniform Commercial Code and, in addition, we shall have the right to terminate this Agreement (except for those provisions which by their terms are not clearly intended to expire upon, or which have otherwise been agreed to survive, such termination) at any time without notice, in which case all of your Obligations to us, whether incurred under this Agreement or otherwise shall become immediately due and payable without notice or demand and, except as otherwise required by law, we may at any time or times sell and dispose of any or all property subject to our security interest and/or other collateral held by us hereunder at public or private sale, for cash, upon credit or otherwise, free from any right of redemption, at such prices and upon such terms as we deem advisable, in our sole discretion, and you hereby waive any requirement for demand, advertisement or notice as a condition of such sale or other disposition; and, provided, however, that you further agree that any requirement of reasonable notice shall be met if we mail notice to you postage prepaid to us at your address as set forth herein at least five days before the time of sale or other disposition with the proceeds thereof to be applied first to all costs and expenses of sale, including the fees and disbursements of our counsel, and then to the payment of all your Obligations to us. Thereafter, we shall return any excess proceeds to you and you shall remain liable to us for any deficiency thereof.

19. **Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, applicable to agreements made and to be performed wholly within such state. Each of the parties hereto hereby consents to the exclusive jurisdiction of the state or federal courts located in the Borough of Manhattan, New York, and agrees that any action concerning a dispute arising out of or relating to this Agreement shall be brought in any such court and that process, notice of motion or other application of the court, or a judge thereof, or any notice in connection with the proceedings provided for herein may be served on the parties hereto within or without the State of New York by certified mail. EACH OF SAID PARTIES DOES HEREBY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY SUCH PROCEEDING.

19. **Notices.** Notices hereunder shall be in writing and shall be deemed duly given (i) upon mailing a confirmation by first class mail, postage prepaid, of a facsimile or email transmission, (ii) when sent by overnight delivery by courier, or (iii) when mailed by registered or certified mail,

return receipt requested and postage prepaid, to the address of recipient in the documentation for this Agreement.

20. Miscellaneous Provisions. No failure to exercise any power or right hereunder shall operate as a waiver thereof. Our rights, remedies and benefits hereunder are cumulative and not exclusive of any other rights, remedies or benefits which we may have. Modifications hereof or waivers hereunder shall be effective only if in writing. Notices and other communications hereunder shall be in writing sent to the other party at the address specified herein. We (but not you) shall have the right to assign this Agreement and all our rights hereunder. This agreement shall inure to the benefit of and shall bind our respective successors and assigns.

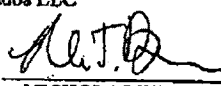
Very truly yours,

MERCHANT FACTORS CORP.

By: 
ADAM WINTERS
President & C.E.O.

Accepted:

Soludos LLC

By: 
NICHOLAS BROWN
Managing Member

Principal's Place of Business:
580 Broadway
Suite 1001
New York, NY 10012

Other Places of Business and
All locations of collateral:

AMS Fulfillment Advantage Media
Services, Inc.
d/b/a AMS Fulfillment
28220 Industry Drive
Valencia, CA 91335

WRITTEN CONSENT
OF
THE MEMBERS
OF
SOLUDOS LLC

Dated Dec 2 October 2013

The undersigned, being the members (the "Members") of Soludos LLC, a Delaware limited liability company (the "Company"), hereby consent to and approve the following resolutions and each and every action effected thereby:

WHEREAS, the Members have been presented with Discount Factoring Agreement ("Factoring Agreement") dated as of October 2013 together with documents ancillary thereto.

NOW, THEREFORE, BE IT RESOLVED, that the Factoring Agreement, and all documents ancillary thereto, and the performance by the Company thereunder, are hereby authorized and approved in all respects, with such changes, amendments, modifications and renewals thereto as the Company may approve, and the Member's execution and delivery thereof shall be deemed conclusive evidence of such approval; and be it

FURTHER RESOLVED, that Nicholas Brown, as Managing Member, be, and hereby is, authorized, empowered and directed, in the name and on behalf of the Company, to enter into and execute and deliver the Factoring Agreement and any other documents ancillary thereto, with such changes, amendments, modifications and renewals thereto as the Company may approve, and the Member's execution and delivery thereof shall be deemed conclusive evidence of such approval; and be it

FURTHER RESOLVED, that Nicholas Brown, as Managing Member, be, and hereby is, authorized, empowered and directed, in the name and on behalf of the Company, to enter into and execute and deliver such other agreements, amendments, modifications, renewals, applications, consents, acknowledgments, documents, promissory notes, certificates, financing statements, control agreements, letters of credit, notices, fee letters, commitment letters and other instruments with respect to any of the foregoing, in such form and on such terms and conditions as may be deemed necessary or appropriate by the Company and to take such other actions with respect to the foregoing as may be deemed necessary or appropriate by the Company; and be it

FURTHER RESOLVED, the Company may sell Receivables to Merchant Factors Corp. (hereinafter called "the Factor") obtain from the Factor loans and advances in such amounts and on such terms and conditions as such officer or agent deems proper; execute notes and other evidences of Company's indebtedness with respect thereto; to enter into factoring and other agreements with the Factor relating to the terms and conditions upon which any such Receivables may be sold or loans and advances may be obtained and to the collateral security to be furnished by this Company therefore; from time to time modify, supplement or amend any such agreements, any such terms or conditions and any such collateral security; from time to time to sell, pledge, assign, guaranty, mortgage, consign, grant security interests in and otherwise

LIMITED LIABILITY COMPANY OPERATING AGREEMENT
OF SOLUDOS LLC

THIS LIMITED LIABILITY COMPANY OPERATING AGREEMENT of Soludos LLC, a Delaware limited liability company (the "Company") is entered into as of August 26, 2010 (the "Effective Date"), by and among the members listed on Schedule 1 hereto and such other Persons who may hereafter be admitted from time to time as members in accordance with the provisions hereof (collectively, the "Members").

In consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Definitions. In addition to the terms defined in other provisions of this Agreement, the following terms shall have the meanings set forth below for purposes of this Agreement:

"Act" shall mean the Delaware Limited Liability Company Act, as the same may be amended from time to time.

"Agreement" shall mean this Limited Liability Company Operating Agreement, as the same shall be amended and/or restated from time to time.

"Capital Account" shall mean, with respect to each Member, the individual account maintained by the Company with respect to such Member as provided in Article IV.

"Capital Contribution" shall mean, with respect to each Member, any contribution to the Company by such Member of services, cash, or other property; provided, however, that when property is contributed to the Company, the Capital Contribution relating to such contribution of property shall be equal to the property's fair market value (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to for the purpose of Section 752 of the Code).

"Code" shall mean the United States Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law, including the rules and regulations promulgated thereunder.

"Fiscal Year" shall mean the period from January 1 to December 31 of each year, unless otherwise required by law.

"Liquidation Event" shall include (A) the closing of the sale, transfer or other disposition of all or substantially all of the Company's assets, (B) the consummation of the merger or consolidation of the Company with or into another entity (except a merger or consolidation in which the holders of Securities of the Company immediately prior to such merger or consolidation continue to hold at least 50% of the

voting power of the Securities of the Company or the surviving or acquiring entity), (C) the closing of the transfer (whether by merger, consolidation or otherwise), in one transaction or a series of related transactions, to a Person or group of affiliated Persons (other than an underwriter of the Company's Securities), of the Company's Securities if, after such closing, such Person or group of affiliated Persons would hold 50% or more of the outstanding voting Securities of the Company (or the surviving or acquiring entity) or (D) a liquidation, dissolution or winding up of the Company; provided, however, that a transaction shall not constitute a Liquidation Event if its sole purpose is to change the state or entity type of the Company's organization or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's Securities immediately prior to such transaction. Notwithstanding the prior sentence, the sale of Membership Units in a bona fide financing transaction shall not be deemed a "Liquidation Event."

"Major Investor" shall mean Tussock III LLC.

"Managing Member" shall mean the Person designated as such in this Agreement.

"Membership Units" shall mean the Company's membership units as authorized hereunder.

"Ownership Percentage" shall mean, with respect to any Member, the quotient (expressed as a percentage) obtained by dividing (i) the total amount of all Membership Units held by such Member by (ii) the aggregate amount of Membership Units authorized hereunder, as set forth on Schedule L, as it may be amended from time to time in accordance with this Agreement. The sum of the Ownership Percentages of the Members shall at all times equal one hundred percent (100%).

"Person" shall mean any natural person or any corporation, company, limited liability company, partnership, trust, estate, association, custodian, nominee, or any other individual or entity in its own or any representative capacity.

"Transfer" shall mean any sale, assignment, encumbrance, hypothecation, pledge, conveyance in trust, gift, transfer by bequest, devise or descent, exchange, or other transfer or disposition of any kind, including, but not limited to, transfers pursuant to divorce or legal separation, transfers to receivers, levying creditors, trustees or receivers in bankruptcy proceedings or general assignments for the benefit of creditors, whether voluntary, involuntary or by operation of law, directly or indirectly, of any Membership Unit or portion thereof.

"Treasury Regulations" shall mean the income tax regulations promulgated under the Code, as such regulations are then in effect and as thereafter amended from time to time (including corresponding provisions of succeeding regulations).

ARTICLE II FORMATION OF LIMITED LIABILITY COMPANY

2.1 Formation. The Company was formed on August 19, 2010 by causing a Certificate of Formation conforming to the requirements of the Act (as such articles may be amended from time to time, the "Certificate") to be filed with the Delaware Secretary of State.

2.2 Name. The name of the Company is Soludos LLC and all business of the Company shall be conducted under that name, or under any other name approved by the Managing Member, but in any case, only to the extent permitted by applicable law.

2.3 Principal Place of Business. The principal place of business of the Company will be such place as the Managing Member may designate from time to time. The Company may maintain such other office or offices for the transaction of business at such other locations as determined by the Managing Member.

2.4 Registered Agent. The registered agent of the Company in the State of Delaware shall be the registered agent designated in the Certificate or such other registered agent as the Board of Managers may designate from time to time in accordance with applicable law.

2.5 Purpose. The Company may engage in any lawful act or activity for which limited liability companies may be formed under the Act. The Company shall have all of the powers provided for a limited liability company under the act.

2.6 Term. The term of the Company commenced on the date the Certificate was filed with the Delaware Secretary of State in accordance with the Act and shall continue in existence unless terminated in accordance with this Agreement.

**ARTICLE III
MEMBERSHIP**

3.1 Members. The Members of the Company are set forth on Schedule 1 hereto, which shall only be amended in accordance with this Agreement.

3.2 Membership Units Authorized. The total number of Membership Units this Company is authorized to issue is 1,000,000.

3.3 Evidence of Membership Units. The Company may, but shall not be required to, certificate the Membership Units. Any certificates evidencing the Membership Units shall bear the following legends, and any other legends required by, or desirable under, applicable law, including any legend required by applicable state "blue sky" securities laws.

"THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF A REGISTRATION STATEMENT IN EFFECT WITH RESPECT TO THE SECURITIES UNDER SUCH ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED OR UNLESS SOLD PURSUANT TO RULE 144 OF SUCH ACT."

"THE SALE, PLEDGE, HYPOTHECATION, ASSIGNMENT OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A CERTAIN LIMITED LIABILITY COMPANY OPERATING AGREEMENT BY AND BETWEEN THE MEMBERS, THE LIMITED LIABILITY COMPANY AND CERTAIN HOLDERS OF MEMBERSHIP UNITS OF THE COMPANY. COPIES OF SUCH AGREEMENT MAY BE OBTAINED UPON WRITTEN REQUEST TO THE MANAGING MEMBER OF THE LIMITED LIABILITY COMPANY."

3.4 **Additional Members.** Subject to Section 3.5, a Person may be admitted as an additional Member of the Company and an existing Member may be issued additional Membership Units (an "Additional Member") after the date of this Agreement only in accordance with applicable law and upon: (i) written consent of those Members holding a majority in interest of the then outstanding Membership Units, (ii) delivery by such Person to the Company of an executed counterpart signature page to this Agreement (if they are not already a Member) and (iii) the completion by such Person of any other such action or actions which the Managing Member, in his sole discretion, determines to be necessary or appropriate and as are consistent with the terms of this Agreement. Upon satisfaction of the foregoing, the Managing Member shall amend Schedule I without the further vote, act or consent of any other Member to reflect the name, address, Membership Units, Ownership Percentage and Capital Contributions of such Additional Member. Upon the amendment of Schedule I, such Person shall become a Member hereunder.

3.5 **Right of First Offer.** Subject to the terms and conditions specified in this Section 3.5, the Company hereby grants to each Member a right of first offer with respect to future sales by the Company of its Securities (as hereinafter defined). Each time the Company proposes to offer any Membership Units or securities convertible into or exchangeable or exercisable for any Membership Units ("Securities"), the Company shall first make an offering of such Securities to each Member in accordance with the following provisions:

(a) The Company shall deliver a notice in accordance with Section 10.1 ("Notice") to each Member stating (i) its bona fide intention to offer such Securities, (ii) the number of such Securities to be offered and (iii) the price and terms upon which it proposes to offer such Securities.

(b) By written notification received by the Company within twenty (20) calendar days after the giving of Notice, each Member may elect to purchase, at the price and on the terms specified in the Notice, up to that portion of such Securities that equals the proportion that the number of Membership Units issued and held by each Member (assuming full conversion and exercise of all convertible and exercisable Securities then outstanding) bears to the total number of Membership Units of the Company then outstanding (assuming full conversion and exercise of all convertible and exercisable Securities then outstanding).

(c) If all Securities that each Member is entitled to obtain pursuant to subsection 3.5(b) are not elected to be obtained as provided in subsection 3.5(b) hereof,

the Company may, during the ninety (90) day period following the expiration of the period provided in subsection 3.5(b) hereof, offer the remaining unsubscribed portion of such Securities to any person or persons at a price not less than that, and upon terms no more favorable to the offeror than those, specified in the Notice. If the Company does not enter into an agreement for the sale of the Securities within such period, or if such agreement is not consummated within sixty (60) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such Securities shall not be offered unless first reoffered to each Member in accordance herewith.

(d) The rights provided in this Section 3.5 may not be assigned or transferred by any Member, other than to another Member.

(e) The covenants set forth in this Section 3.5 shall terminate and be of no further force or effect upon the consummation of a Liquidation Event.

3.6 Limitation of Liability. The Members and Managing Member shall not be liable for any indebtedness, liability or obligation of the Company or of any other Member or their respective affiliates whether arising in tort, contract or otherwise.

3.7 Member Meetings. Meetings of the Members may be called at any time by the Managing Member or those Members holding a majority in interest of the then outstanding Membership Units. The Managing Member or the Members may designate any place, either within or outside of the state of the principal place of business, as the place of meeting for any meeting of the Members. Meetings of the Members may be held telephonically or by video conference provided that all of the Members participating in such meetings can hear and, in the case of a video conference, see each other at the same time. Whenever Members are required or permitted to take action at a meeting, written notice stating the place, date and time of such meeting shall be given to each Member entitled to vote at such meeting not less than ten (10) days before the date of the meeting. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the Member attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Those Members holding a majority in interest of the then outstanding Membership Units, represented in person or by proxy, shall constitute a quorum at all meetings of the Members. All actions requiring approval by the Members shall be approved by the affirmative vote of those Members holding a majority in interest of the then outstanding Membership Unit, unless otherwise provided herein.

3.8 Action by Written Consent. Any action required or permitted to be taken at any meeting of Members may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action, shall be signed by the Members required to approve such action. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to the Members that have not consented in writing. Any action taken by written consent of the Members shall have the same force and effect as if taken by the Members at a meeting thereof.

ARTICLE IV

CAPITAL CONTRIBUTIONS

4.1 Capital Contributions. The Members have made initial Capital Contributions in the amounts set forth opposite their respective names on Schedule I attached hereto.

4.2 Additional Capital Contributions. No Member shall be permitted or required to make any additional Capital Contribution without the approval of the Managing Member. The Company may accept additional Capital Contributions from a Member or other Person, but only pursuant to Section 3.4 and 3.5 hereof.

4.3 Capital Accounts. A separate capital account shall be established for each Member and shall be maintained in accordance with this Agreement and Treasury Regulation Section 1.704-1(b). Except as otherwise provided in Section 1.704-1(b) of the Treasury Regulations, the Capital Account of each Member shall consist of the Capital Contributions made by such Member in accordance with this Agreement, (a) increased by sum of (i) any items of net income, net profit or net gain (collectively, "Net Profits") allocated to such Member in accordance with this Agreement and (ii) any items required to be included therein under Treasury Regulation Section 1.704-1(b), and (b) decreased by sum of (i) any distributions in reduction of Company capital to such Member made in accordance with this Agreement, (ii) the fair market value of any property distributed by the Company to such Member in accordance with this Agreement (net of any liabilities that such Member is considered to assume or hold subject to for the purposes of Section 752 of the Code), (iii) any items of net loss or gross deduction (collectively, "Net Losses") allocated to such Member pursuant to this Agreement and (iv) any other items required to be subtracted therefrom under Treasury Regulation Section 1.704-1(b).

4.4 Interest, Priority and Return of Capital. The Company shall pay no interest on the Capital Contributions and no Member shall have the right to withdraw, or demand the return of any part of, its Capital Contributions. No Member shall have priority over any other Member, whether for allocations of Net Profits, Net Losses or a distribution. This Section 4.4 shall not apply to a loan (as distinguished from a Capital Contribution) made by a Member to the Company.

4.5 Deficit Capital Account. Except as otherwise required in the Act, the Code or this Agreement, the Members shall not have any liability to restore all or any portion of a deficit balance in each Member's Capital Account.

ARTICLE V
MANAGEMENT

5.1 Management. Subject to the limitations set forth in this Agreement (including, without limitation, those contained in Section 5.3 below), the powers of the Company, including the right to manage the day-to-day operations of the Company, shall be exercised by and under the authority of, the Managing Member for the benefit of the

Members. Except as expressly provided herein, the Managing Member shall have the power and authority to do any and all acts necessary or convenient for the furtherance of the purposes described herein.

5.2 Appointment of Managing Member. The initial Managing Member is Nicholas Brown.

5.3 Actions requiring consent of Major Investor. Notwithstanding anything contained herein to the contrary, the written consent of the Major Investor shall be required to approve any of the following:

- (a) Hiring and firing of senior management, including but not limited to the Managing Member, and any material changes to their employment terms;
- (b) approval of business plans, annual budgets and any material deviation therefrom;
- (c) a Liquidation Event;
- (d) distributions;
- (e) acquisitions or divestitures in excess of \$30,000 in the aggregate;
- (f) the making of any material investment or the entering into of any partnership, alliance, joint venture or similar arrangement;
- (g) debt incurrence or guarantee not contemplated by the annual budget in excess of \$30,000 in the aggregate;
- (h) grant of any security interest, lien or other encumbrance in or over any asset with a value in excess of \$10,000 in the aggregate;
- (i) material changes in compensation/benefits/incentive pool, other than as contemplated in the annual budget;
- (j) amendments to governing documents (in addition to any consent of any other party required to amend any such document);
- (k) instituting or settling litigation for any amount or any material regulatory investigation;
- (l) fundamental change or expansion to the scope of the Company;
- (m) engagement or discharge of independent auditors; and
- (n) bankruptcy and insolvency actions.

5.4 Resignation and Removal. Except as otherwise provided in the Act and this Agreement, the Managing Member may resign at any time by giving written notice to the Members. The resignation of the Managing Member shall take effect upon receipt of such notice, or at any later time specified in such notice; provided, however, that such resignation shall take effect only upon the appointment of a new Managing Member pursuant to Section 5.2. The Managing Member may be removed at any time upon the vote of those Members holding a majority in interest of the then outstanding Membership

Units; provided, however, that such removal shall take effect only upon the appointment of a new Managing Member pursuant to Section 5.2. The resignation or removal of the Managing Member shall not affect such Managing Member's rights as a Member and shall not constitute a withdrawal as a Member.

5.5 **Actions.** Whenever this Agreement requires the consent or approval of the Managing Member, the written consent or approval of the Managing Member shall be required.

5.6 **Officers.** The Managing Member may, from time to time as he deems advisable, designate natural persons (including himself) as officers of the Company (the "Officers"), assign such persons titles (including, without limitation, President, Vice President, Secretary, and Treasurer) and delegate to such Officers such duties and responsibilities as he deems advisable. The Officers, to the extent of their powers as delegated by the Managing Member, are agents of the Company for the purpose of the Company's business, and the actions of the Officers taken in accordance with such powers shall bind the Company. An Officer may be removed with or without cause by the Managing Member. In no way shall this Agreement constitute an employment contract.

5.7 **Bank Accounts.** The Managing Member is authorized to and shall establish and maintain bank accounts in the Company's name in such amounts as the Managing Member shall deem necessary from time to time. The funds of the Company shall not be commingled with the funds of other companies or the individual Members. The Managing Member may sign checks and withdraw funds from any such accounts for Company purposes as may be necessary or advisable from time to time.

5.8 **Removal of Managing Member.** Should sales of the Company, as defined by the Company's business plan, be (i) 40% or less of projected sales for two consecutive fiscal years, or (ii) 70% or less of projected sales for one year, then Major Investor shall have the right, exercisable at its sole discretion, to remove the Managing Member and to appoint a new Manager, who may be appointed only with the prior written consent of all Members, such consent not to be unreasonably withheld.

5.9 **Members' Duty to Prepare Annual Business Plan and Budget, Etc.** Within 90 days after the date hereof and the end of each fiscal year of the Company thereafter, the members shall prepare and approve by the affirmative vote of both members a written business plan and budget for the following fiscal year, or part thereof, as applicable.

ARTICLE VI TRANSFER

6.1 **Transfer.** No Member may Transfer all or any portion of its Membership Units except in compliance with this Article VI. Any purported Transfer in contravention of this Article VI shall be void and of no effect to, on or against the Company or any

Member. All reasonable costs incurred by the Company in connection with the Transfer of a Member's Membership Units, including without limitation any filing fees and attorneys' fees, shall be paid by the transferring Member.

6.2 Restrictions on Transfer. Subject to the provisions of Section 6.4 below, no Member may Transfer all or any portion of its Membership Units unless and until:

(a) Such Member shall have notified the Managing Member of the proposed Transfer and shall have furnished the Managing Member with a detailed statement of the circumstances surrounding the proposed Transfer, and if reasonably requested by the Managing Member, such Member shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company that such Transfer will not require registration of such shares under the Act. It is agreed that the Company will not require opinions of counsel for transactions made pursuant to Securities and Exchange Commission Rule 144 except in unusual circumstances.

(b) Notwithstanding the provisions of subsection (a) above, no such opinion of counsel shall be necessary for a Transfer to any spouse or member of a Member's immediate family, or to a custodian, trustee (including a trustee of a voting trust), executor or other fiduciary for the account of the Member's spouse or members of the Member's immediate family, or to a trust for the Member's own self, or a charitable remainder trust, if the Transfer is made in accordance with applicable law.

(c) In addition to meeting the requirements of subsection (a) and (b) above, the prospective transferee must agree in all such instances in writing to be subject to the terms hereof to the same extent as if he, she or it were an original Member hereunder. Notwithstanding anything in this Agreement to the contrary, upon satisfaction of the foregoing, the Managing Member shall amend Schedule I without the further vote, act or consent of any other Member to reflect such Transfer.

6.3 Reversion or Repurchase of Membership Units to Company. No restrictions on Transfer shall apply to a reversion or repurchase of Membership Units by the Company in accordance with a separate agreement between the Company and a Member.

6.4 Major Investor Exit Right. At any time following the fifth (5th) anniversary of the date hereof, the Major Investor may, at its option, provide notice (the "Sale Notice") to the remaining Members that it seeks to sell all or a portion of its shares of the Company (the "Subject Shares") at the higher of (x) the fair market value of the Subject Shares, as determined by a recognized investment bank or valuation firm selected by the Major Investor and approved by a majority in interest of the remaining Members, such approval not to be unreasonably withheld or delayed, or (y) the value established by an arms-length offer received by the Major Investor for all or a portion of its shares (the "Specified Price"). This right shall mature only if there should be a reasonable expectation on the part of the Major Investor that the value of the Company be at least US\$20 million.

Following the receipt of the Sale Notice, the remaining Members shall acquire, or cause a third party purchaser to acquire, the Subject Shares from the Major

Investor at a price at or above the Specified Price within six (6) months of the receipt of the Sale Notice. In the event that the other members do not acquire, or cause to be acquired, the Subject Shares within such time period, the Major Investor shall have the unilateral right to market and auction the Company and all Members shall be required to sell their shares in the Company to the third party purchaser selected as the winning bidder by the Major Investor pursuant to such auction.

6.5 Tag-Along Right. If a Member receives an offer from a third party for the acquisition of all of the Membership Units of the Company owned by the Member, then the selling member ("Selling Member") shall cause the bona fide third party offer to permit the remaining members ("Other Members") to sell, at their option, to the third party, the Other Members' ratable share of the Membership Units covered by such sale, and the Selling Member shall send written notice thereof, which notice shall include a copy of the bona fide third party offer (the "Inclusion Notice") to the Other Members. At any time within 30 days after receipt of the Inclusion Notice, the Other Members may accept the offer included in the Inclusion Notice for up to their proportionate share by furnishing written notice of such acceptance to the Selling Member, together with a limited power-of-attorney authorizing the Selling Member to sell or otherwise dispose of such Membership Units pursuant to the terms of such third party's offer. Each Other Member giving notice of such acceptance shall sell such Other Member's proportionate Membership Units at the same time to such third party, for the same consideration per Share and otherwise on the same terms (including covenants, representations, warranties and indemnities and escrow provisions) and conditions. If within 30 days after the receipt of the Inclusion Notice, none of the Other Members has accepted the offer contained in the Inclusion Notice, the Other Members shall be deemed to have waived any and all rights with respect to the sale of the Membership Units described in the Inclusion Notice, and the Selling Member shall have 30 days after receipt of the Inclusion Notice in which to sell not more than the amount of Membership Units described in the Inclusion Notice, on terms not more favorable to the Selling Member than were set forth in the Inclusion Notice. If, at the end of 60 days following the receipt of the Inclusion Notice, the Selling Member has not completed the sale or other disposition of its Membership Units and those of the Other Members in accordance with the terms of the third party's offer, all the restrictions on sale or other disposition contained in this Company Agreement with respect to Membership Units owned by the Selling Member shall again be in effect.

6.6 Company's Repurchase Right.

(a) Subject to the provisions of Section 6.6 (b), upon Major Investor's failure to perform certain duties as mutually agreed upon by the Company and the Major Investor, the Company shall have an option to redeem and the remaining Members shall have an option to cross-purchase up to 29/49ths of the Major Investor's Membership Units based upon a valuation of the Company set at the value equal to the Company's trailing twelve month sales calculated as of the final day of the calendar month preceding the exercise of the option. The payment for such share need not be payable immediately and can be paid by the remaining Members at anytime over the subsequent six (6) month period. Interest will be payable at the Prime Rate plus 4% on all outstanding amounts until the full

amount has been repaid. The Prime Rate means the rate of interest published from time to time in The Wall Street Journal, Eastern Edition and designated as the prime rate.

(b) Notwithstanding anything to the contrary in Section 6.6 (a), commencing upon the date hereof, the rights of redemption and cross-purchase shall lapse with respect to 1/48th of the Major Investor's membership rights with the passage of each month hereafter.

6.7 Right of First Refusal.

(a) In the event that a Member proposes to Transfer to a third party any Membership Units, the Company shall have a right of first refusal ("Right of First Refusal") with respect to all (and not less than all) of such Membership Units. If the Member desires to transfer any Membership Units, the Member shall give a written transfer notice pursuant to Section 6.2 hereto. The transfer notice shall be signed both by the Member and by the proposed transferee and must constitute a binding commitment of both parties to the transfer of the Units. The Company shall have the right to purchase all, and not less than all, of the Membership Units on the terms of the proposal described in the transfer notice by delivery of a notice of exercise of the Right of First Refusal within thirty (30) days after the date when the transfer notice was received by the Company.

(b) The Company agrees that in the event that the Company declines to exercise in full the Right of First Refusal between such Member and the Company, the Company will provide each Member with notice of such determination prior to the end of the period in which the Right of First Refusal expires. Each Member shall then have the right, exercisable by notice to the Company and the other Members within thirty (30) days after receipt of notice of the Company's determination, to exercise such Right of First Refusal as the Company's assignee on a *pro rata* basis; provided that if fewer than all Members elect to participate, the Membership Units that would otherwise be allocated to non-participating Members shall be allocated to each participating Member so that each participating Member is entitled to purchase at least such Member's *pro rata* portion of such unallocated Units or such different number of Units as the participating Members shall mutually agree. In the event an offer provides for consideration other than cash, in lieu of such consideration, the Company and the Members may make payment in cash in an amount equal to the full market value of such consideration. Upon expiration or exercise of the Right of First Refusal, the Company will provide notice to all Members as to whether or not the Right of First Refusal has been exercised by the Company or the Members.

ARTICLE VII ACCOUNTING AND RECORDS

7.1 **Records.** Inspection of Books Proper and complete books of account and records of the business of the Company (including those books and records identified in the Act) shall be kept at the Company's principal place of business and at any other place as designated by the Managing Member, and shall be available for inspection and examination, for a proper purpose and at reasonable times during usual business hours, by Members or

their duly authorized representatives. The Company may require that Members, or their representatives, sign a confidentiality agreement prior to receiving Company records. The cost of copying any material is borne by the requesting Member.

7.2 Tax Returns. The Managing Member shall cause to be prepared and delivered, at the expense of the Company, all appropriate tax returns for the Company and tax reports required to be prepared under the Code for each Member. Each Member shall furnish to the Company all pertinent information in his possession relating to the Company that is necessary to enable the Company's income tax returns to be properly prepared and filed.

7.3 Tax Matters Partner. Nicholas Brown is hereby designated as the Company's "Tax Matters Partner" for purposes of the Code; provided that the Managing Member may appoint a new Tax Matters Partner at any time in his sole discretion.

7.4 Tax Elections. The Members expect and intend that the Company shall be treated as a partnership for all federal income tax purposes and each Member agrees that it (i) will not on any federal, state, local or other tax return take a position, and shall not otherwise assert a position, inconsistent with such expectation and intent; or (ii) will not do any act or thing which could cause the Company to be treated as other than a partnership for federal income tax purposes.

ARTICLE VIII ALLOCATIONS AND DISTRIBUTIONS

8.1 Incorporation of Treasury Regulations. Allocations of Net Profits and Net Losses shall be allocated to the Members pro rata in accordance with their respective Ownership Percentages. ~~Applicable Treasury Regulations and sections of the Code~~ relating to allocations of Net Profits and Net Losses are hereby incorporated into this Agreement by reference and shall control over any conflicting provision of this Agreement. To the extent that any allocation of Net Profits and Net Losses (i) is required by this Agreement but not permitted by the Treasury Regulations or the Code, or (ii) is required by the Treasury Regulations or the Code but not provided for in this Agreement, the amount thereof shall be allocated or reallocated to the Members in the manner provided in the Treasury Regulations or the Code.

8.2 Distributions. All distributions by the Company shall be made when and if and in the amounts and form approved by the Managing Member and the Major Investor; ~~provided; however,~~ all distributions shall be made to the Members pro rata in accordance with their respective Ownership Percentage. Notwithstanding anything to the contrary contained in this Agreement, no Member shall have a right to a distribution if such distribution would violate the Act or any other applicable law.

ARTICLE IX TERMINATION

9.1 Dissolution. The Company shall be dissolved upon the first to occur of the following:

- (a) A Liquidation Event;
- (b) Any event that causes the Company to be dissolved under the Act; or
- (c) The affirmative vote of those Members holding a majority in interest of the then outstanding Membership Units and the Major Investor.

9.2 Authority to Wind-Up. Upon Dissolution, the Managing Member shall have all necessary power and authority required to marshal the assets of the Company, to pay the Company's creditors, to distribute assets and otherwise wind-up the business and affairs of the Company.

9.3 Winding-Up and Distribution of Assets. The winding-up of the Company shall be completed when all debts, liabilities and obligations of the Company have been paid and discharged or reasonable adequate provision therefor has been made, and all of the remaining property and assets of the Company have been distributed to the Members. The remaining assets of the Company shall be distributed among the Members in accordance with Section 8.2.

9.4 Certificate of Cancellation. Upon completion of winding-up of the Company, a Certificate of Cancellation shall be filed with the Delaware Secretary of State pursuant to the Act.

9.5 Termination. Upon completion of the dissolution, winding-up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

9.6 Special Liquidation Preferences. Notwithstanding anything in this Article IX, the Major Investor shall have the right to exercise the following liquidation preference in lieu of the manner for distribution set forth in Section 8.2:

(a) In the event of a Liquidation Event, the Major Investor shall be entitled to receive, prior and in preference to any distribution of any of the assets of the Company to the remaining Members by reason of its status as Major Investor, an amount equal to its Capital Commitment as set forth on Schedule I. If upon the Liquidation Event, the assets of the Company legally available for distribution to the Major Investor are insufficient to permit the payment to such members of the full amounts specified in Schedule I, then the entire assets of the Company legally available for distribution shall be distributed to the Major Investor in proportion to the full amount it would otherwise be entitled to receive pursuant to Section 8.2.

(b) After the payment or setting aside for payment to the Major Investor of the full amount specified in Section 9.6(a) above, the entire remaining assets of the Company

legally available for distribution shall be distributed pro rata to the remaining Members of the Company in accordance with their respective Ownership Percentage.

**ARTICLE X
MISCELLANEOUS**

10.1 Notices. All notices and other communications to a Member required or permitted hereunder shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, or (iii) two (2) days after deposit with a nationally recognized overnight courier, specifying next or second day delivery, with written verification of receipt. All communications shall be sent to the respective parties at the addresses set forth on Schedule 1 attached hereto (or at such other addresses as shall be specified by notice given in accordance with this Section 10.1).

10.2 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. Facsimile signature pages shall be accepted as originals for all purposes hereof.

10.3 Interpretation. All uses of the words "Article(s)" and "Section(s)" in this Agreement are references to articles and sections of this Agreement, unless otherwise specified. The titles and subtitles of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement. Throughout this Agreement, nouns, pronouns and verbs shall be construed as masculine, feminine, neuter, singular or plural, whichever shall be applicable.

10.4 Entire Agreement; Amendment. This Agreement constitutes the entire agreement pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings in connection therewith; provided, however, nothing contained herein shall be construed as superseding the terms and conditions of those certain Restricted or Member Unit Purchase Agreements between the Company and the Members listed on Schedule 1 hereto (the "Purchase Agreements"). For the avoidance of doubt, all such terms and conditions contained in the Purchase Agreements will remain in full force and effect. No amendment to this Agreement shall be effective unless made in a writing duly executed by those Members holding a majority in interest of the then outstanding Membership Units.

10.5 Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

10.6 Governing Law. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York without regard to principles of conflict of laws. Each party hereby submits to non-exclusive personal jurisdiction of the federal and state courts located in New York in connection with any dispute or claim related to this Agreement.

10.7 Severability. The parties hereto agree that if any provision contained in this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be incapable of being construed or limited in a manner to make it enforceable, or is otherwise held by such court to be illegal, null or void or against public policy, the remaining provisions contained in this Agreement shall not be affected thereby.

10.8 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, but the rights and obligations of the parties hereto shall not be assignable, or for the benefit of, any third-party except as expressly provided otherwise in this Agreement.

10.9 Attorney Fees. In the event any party brings an action to enforce any provisions of this Agreement, whether such action is at law, in equity, or otherwise, and such party prevails in such action, such party shall be entitled, in addition to any other rights or remedies available to it, to collect from the non-prevailing party or parties the reasonable costs and expenses incurred in the investigation preceding such action and the prosecution of such action, including but not limited to reasonable attorney fees and court costs.

10.10 Further Instruments and Actions. The parties agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Agreement.

10.11 Indemnification. The Company may, and shall have the power to, indemnify and hold harmless any Member or the Managing Member or other person from and against any and all claims and demands whatsoever, as approved by the Managing Member.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the date first above written.

COMPANY:



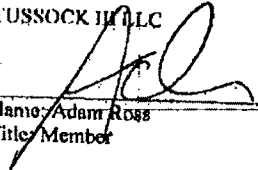
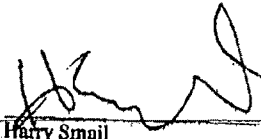
Name: Nicholas Brown
Title: Managing Member

MEMBERS:



Name: Nicholas Brown

TUSSOCK III, LLC


Name: Adam Ross
Title: Member
Name: Harry Small
Title: Member

Schedule 1

Schedule of Members

Date of Capital Contribution	Purchase Price per Membership Unit	Membership Units	Capital Contribution	Ownership Percentage
Nicholas Brown 70 Barrow Street, No. 5PB New York, NY 10014		510,000	\$78,811	51%
Tussock III LLC 166 Bowery, Apartment 2P New York New York 10012		490,000	\$75,720	49%
Total		1,000,000	\$154,531	100%

DELAWARE LIMITED LIABILITY COMPANY OPERATING AGREEMENT**FOR****TUSSOCK III
EIN: 01-0876618**

This Company Agreement of this MANAGER MANAGED LIMITED LIABILITY COMPANY organized pursuant to Chapter 18, of the Delaware Limited Liability Act, is entered into and shall become effective as of the Effective Date by and among the Company and the persons executing this Agreement as Members. It is the Members express intention to create a limited liability company in accordance with the Act, as currently written or subsequently amended or rerafted. Therefore, all provisions of this document shall be construed consistent with the afore described intent of the Members. Accordingly, in consideration of the conditions contained herein, he/she/they agree as follows:

ARTICLE I**Company Formation**

- 1.1 **FORMATION.** The Members hereby form a Limited Liability Company ("Company") subject to the provisions of state law as currently in effect as of this date. Articles of Organization shall be filed with the Secretary of State.
- 1.2 **REGISTERED OFFICE AND AGENT.** The name and address of the initial Delaware registered agent for service of process shall be stated in the Delaware LLC Certificate of Formation.
- 1.3 **TERM.** The Company shall continue for a perpetual period.
- (a) Members whose capital interest as defined in Article 2.4 exceeds 50 percent vote for dissolution; or
- (b) Any event which makes it unlawful for the business of the Company to be carried on by the Members; or
- (c) Any other event causing dissolution of this Limited Liability Company under applicable state laws.
- 1.4 **CONTINUANCE OF COMPANY.** Notwithstanding the provisions of ARTICLE 1.3, in the event of an occurrence described in ARTICLE 1.3(a), if there are at least one remaining Member(s), said remaining Member(s) shall have the right to continue the business of the Company.
- 1.5 **BUSINESS PURPOSE.** The Company shall conduct any and all lawful business deemed appropriate to execute the company's objectives.
- 1.6 **PRINCIPAL PLACE OF BUSINESS.** The location of the principal place of business of the Company shall be as stated in the Delaware certificate of formation or at a location as the Managers select.
- 1.7 **THE MEMBERS.** The name and place of residence of each member are listed below at Certification of Members. Members are the owners of this company.
- 1.8 **ADMISSION OF ADDITIONAL MEMBERS.** Except as otherwise expressly provided in the Agreement, no additional members may be admitted to the Company through issuance by the company of a new interest in the Company without the prior unanimous written consent of the Members.

ARTICLE II**Capital Contributions**

- 2.1 **INITIAL CONTRIBUTIONS.** The Members initially shall contribute to the Company capital and the company shall keep record of the amount each contributed.
- 2.2 **ADDITIONAL CONTRIBUTIONS.** Except as provided in ARTICLE 6.2, no Member shall be obligated to make any additional contribution to the Company's capital.

ARTICLE III**Profits, Losses and Distributions**

- 3.1 **PROFITS/LOSSES.** For financial accounting and tax purposes the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company, and as amended from time to time in accordance with Treasury Regulation 1.704-1.
- 3.2 **DISTRIBUTIONS.** §18-601-609. The Members shall determine and distribute available funds annually or at more frequent intervals as they see fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Managers. Distributions in liquidation of the Company or in liquidation of a Member's interest shall be made in accordance with the positive capital account balances pursuant to Treasury Regulation 1.704-1(b)(2)(H)(b)(2). To the extent a Member shall have a negative capital account balance, there shall be a qualified income offset, as set forth in Treasury Regulation 1.704-1(b)(2)(H)(d).

ARTICLE IV**Management**

- 4.1 **MANAGEMENT OF THE BUSINESS.** This company shall be manager managed. The initial elected managers are set forth in the articles of organization filed with the appropriate State agency. If the appropriate State agency does not require the Managers names be set for in the Delaware certificate of formation, or the organizer elects not to set forth the names of the Managers in the Delaware certificate of formation, the Members may elect the Managers in this agreement in the certification of Managers. Members holding a majority of the capital interests in the Company may elect Managers as the Members determine. Managers listed in the Delaware certificate of formation and/or this agreement will serve as the Managers of this company until a meeting of members is held and new Manager(s) elected.
- 4.2 **MEMBERS.** Members shall not take part in the operation of the Company's affairs, unless they are elected Managers.
- 4.3 **POWERS OF MANAGERS.** The Managers, as authorized by Members, will make decisions as to (a) the sale, development lease or other disposition of the Company's assets; (b) the purchase or other acquisition of other assets of all kinds; (c) the management of all or any part of the Company's assets; (d) the borrowing of money and the granting of security interests in the Company's assets; (e) the prepayment, refinancing or extension of any loan affecting the Company's assets; (f) the compromise or release of any of the Company's claims or debts; and, (g) the employment of persons, firms or corporations for the operation and management of the company's business. In the exercise of their management powers, the Managers are authorized to execute and deliver (a) all contracts, conveyances, assignments leases, sub-leases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (b) all checks, drafts and other orders for the payment of the

Company's funds; (c) all promissory notes, loans, security agreements and other similar documents; and (d) all other instruments of any other kind relating to the Company's affairs, whether like or unlike the foregoing.

- 4.4 **NOMINEE.** Title to the Company's assets shall be held in the Company's name or in the name of any nominee that the Managers may designate. The Managers shall have power to enter into a nominee agreement with any such person and such agreement may contain provisions indemnifying the nominee, except for his willful misconduct.
- 4.5 **COMPANY INFORMATION.** Upon request, the Managers shall supply to any member information regarding the Company or its activities. Each Member or his authorized representative shall have access to and may inspect and copy all books, records and materials in the Manager's possession regarding the Company or its activities. The exercise of the rights contained in this ARTICLE 4.6 shall be at the requesting Member's expense.
- 4.6 **EXCULPATION.** Any act or omission of the Managers, the effect of which may cause or result in loss or damage to the Company or the Members if done in good faith to promote the best interests of the Company, shall not subject the Managers to any liability to the Members.
- 4.7 **INDEMNIFICATION.** The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, for instant expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Members determine that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no contest" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.
- 4.8 **RECORDS.** The Managers shall cause the Company to keep at its principal place of business or at another location agreeable by the Members, the following:
 - (a) A current list in alphabetical order of the full name and the last known street address of each Member;
 - (b) A copy of the Certificate of formation and the Company Operating Agreement and all amendments;
 - (c) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;
 - (d) Copies of any financial statements of the limited liability company for the three most recent years.

ARTICLE V

Compensation

- 5.1 **MANAGEMENT FEE.** Any Manager rendering services to the Company shall be entitled to compensation commensurate with the value of such services as all members agree upon.

5.2 REIMBURSEMENT. The Company shall reimburse the Managers or Members for all direct out-of-pocket expenses incurred by them in managing the Company.

ARTICLE VI

Bookkeeping

6.1 BOOKS. The Managers shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business or at another location agreeable by the Members. Such books shall be kept on such method of accounting as the Managers shall select. The company's accounting period shall be the calendar year.

6.2 MEMBER'S ACCOUNTS. The Managers shall maintain separate capital and distribution accounts for each member. Each member's capital account shall be determined and maintained in the manner set forth in Treasury Regulation 1.704-1(b)(4)(v) and shall consist of his initial capital contribution increased by:

- (a) Any additional capital contribution made by him/her;
- (b) Credit balances transferred from his distribution account to his capital account; and decreased by:
 - (a) Distributions to him/her in reduction of Company capital;
 - (b) The Member's share of Company losses if charged to his/her capital account.

6.3 REPORTS. The Managers shall close the books of account after the close of each calendar year, and shall prepare and send to each member a statement of such Member's distributive share of income and expense for income tax reporting purposes.

ARTICLE VII

Transfers

7.1 ASSIGNMENT. §18-701-705. If at any time a Member proposes to sell, assign or otherwise dispose of all or any part of its interest in the Company, Member shall comply with the following procedures:

(a) First make a written offer to sell such interest to the other Member(s) at a price determined in writing. At this point exiting member may not make this intention publicly known. If such other Members decline or fail to elect such interest within sixty (60) days, the exiting member may advertise its membership interest for sale as it sees fit.

(b) If a member has a buyer of members interest, the other current member(s) have first right of refusal to purchase the exiting members interest for the agreed purchase price. If there are more than one current remaining members, remaining members may combine funds to purchase the exiting members interest. Exiting member must show that potential purchaser has full-certified funds, or the ability to get full certified funds before the first right of refusal period starts. Current members have 60 days to buy exiting members interest if they so desire.

(c) Pursuant to the applicable law, current members may unanimously approve the sale of exiting members' interests to grant full membership benefits and functionality to the new member. The current remaining members must unanimously approve the sale, or the purchaser or assignee will have no right to participate in the management of the business, affairs of the Company, or member voting rights. The purchaser or assignee shall only be entitled to receive the share of the profits or other compensation by way of income

and the return of contributions to which that Member would otherwise be entitled. Exiting member must disclose to buyer of assignee if current members will not approve the sale.

7.2 VALUATION OF EXITING MEMBERS INTEREST. If a member wants to exit the LLC, and does not have a buyer of its membership interest, exiting member will assign its interest to current members according to the following set forth procedures:

- (a) A value must be placed upon this membership interest before assigned.
- (b) If exiting member and current members do not agree on the value of this membership interest, exiting member must pay for a certified appraiser to appraise the LLC company value, and the exiting members' value will be assigned a value according to the exiting members' interest percentage.
- (c) The current members must approve the certified appraiser used by exiting member. Current members have 30 days to approve the exiting members certified appraiser. If current members disapprove the certified appraiser, they must show evidence to support their disapproval of the certified appraiser as a vendor qualified to make the LLC business appraisal. Current members may not stall the process by disapproving all certified appraisers.
- (d) Upon completion of a certified appraiser placing a value on the LLC, a value will be placed on exiting members' interest according to exiting members' percentage of membership interest.
- (e) If current members disagree with the value placed on exiting members' interest, current members must pay for a certified appraiser to value the LLC and exiting members' interest according to the same terms.
- (f) Current members' appraiser must be completed within 60 days or right of current members to dispute the value of exiting members interest expires.
- (g) Upon completion of current members certified appraiser, the exiting member must approve the value placed on exiting members' interest. Exiting member has 30 days to approve this value.
- (h) If exiting member does not approve current members' appraiser value, the value of the LLC will be determined by adding both parties' values, then dividing that value in half, then creating the value of the exiting members' interest according to the exiting members' percentage of membership interest.

7.2 DISTRIBUTION OF EXITING MEMBERS INTEREST. Upon determination of exiting members' interest value, the value will be a debt of the LLC. The exiting member will only be able to demand payment of this debt at dissolution of the LLC or the following method:

- (a) LLC will make timely payments.
- (b) LLC will only be required to make payments towards exiting members' debt if LLC is profitable and passed income to current members.
- (c) LLC must make a debt payment to exiting member if LLC passed income of 30% of the total determined value of the exiting members' interest in one taxable year.
- (d) Debt payment must be at least 10% of the value of the passed income to current LLC members.
- (e) LLC must make payment to exiting member within 60 days of the end of the taxable year for the LLC.
- (f) Payment schedule will continue until exiting members debt is paid by LLC.

(g) If LLC dissolves, exiting member will be a regular debtor and payment will follow normal LLC dissolution payment statutes.

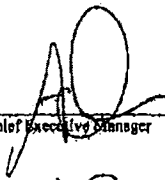
(h) Exiting member's value of membership interest it assigned current members may NOT accrue interest.

(i) LLC can pay off amount owed to exiting member at any time if it so desires.

LISTING OF MANAGERS

Title 6, Subtitle II of Chapter 18, Delaware Limited Liability Company Act, The undersigned hereby agree, to serve as managers for this LLC.

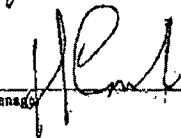
Signed this 28 day of August, 2012.



Chief Executive Manager

Signature

ADAM G. ROSS
166 BOWBRY, #2F
NEW YORK, NEW YORK 10012



Manager

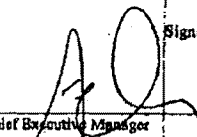
Signature

HARRY J.R. SMALL
41 WOOSTER ST, #4
NEW YORK, NEW YORK 10013

CERTIFICATION OF MEMBERS

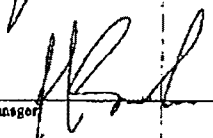
Title 6, Subtitle H, Chapter 18, Delaware Limited Liability Company Act, The undersigned hereby agree, acknowledge and certify to adopt this Operating Agreement.

Signed this 28 day of August, 2010



Chief Executive Manager

Signature ADAM G. ROSS
166 BOWERY, #2F
NEW YORK, NEW YORK 10012



Manager

Signature HARRY J.R. SMAIL
41 WOOSTER ST, #4
NEW YORK, NEW YORK 10013

LLC MEMBERS AND INITIAL CONTRIBUTIONS

Name	Initial Contribution	Ownership Percentage
ADAM ROSS	\$37,860	50%
HARRY SMAIL	\$37,860	50%

United States of America

United States Patent and Trademark Office

SOLUDOS

Reg. No. 3,891,466

Registered Dec. 14, 2010

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

SOLUDOS LLC (DELAWARE LIMITED LIABILITY COMPANY)
2ND FLOOR
466 BROOME STREET
NEW YORK, NY 10013

FOR: ESPADRILLES; FOOTWEAR FOR MEN AND WOMEN, IN CLASS 25 (U.S. CLS. 22 AND 39).

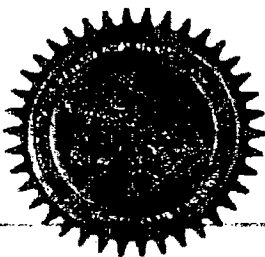
FIRST USE 6-0-2010; IN COMMERCE 6-0-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE WORDING "SOLUDOS" HAS NO MEANING IN A FOREIGN LANGUAGE.

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WENDY GOODMAN, EXAMINING ATTORNEY



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Director of the United States Patent and Trademark Office