

YOU EARNED IT, YOU KEEP IT!

A Practical Guide to Protecting your Assets

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ABOUT THE AUTHORS

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Dr. Kasraie has literally been conducting business all over the world for the past 30 years. Through his practical experience in various industries ranging from banking and finance to natural resources and utilities, he has amassed an immeasurable amount of knowledge as it relates to international law.

Beginning in the early 1980s, after years of executive experience in the areas of banking and industry, Dr. Kasraie co-founded two corporations. The first of which was Midcontinental Bank & Trust, which had a presence in the U.S., Italy, Switzerland, England, and the Caribbean. Dr. Kasraie was President of the Bank from 1982 until 1989. The second corporation was Euroamerican Petroleum Corporation, which is engaged in the production and marketing of oil and gas in several Appalachian states in the U.S. He is now Chairman of the Board of Directors and Chief Executive Officer of that company. Dr. Kasraie then went on to co-found Midcontinental Group Corporation ("MGC"), which holds or is associated with several industries and businesses involved in oil and gas, pharmaceuticals, real estate, finance, E-learning, tourism, and recycling. Dr. Kasraie is now Chief Executive Officer of MGC.

In the late 1990's, Dr. Kasraie co-founded the law firm of Marchman & Kasraie, LLC (now Kasraie & Fodor, LLC). The firm is active in corporate and corporate and security law, international trade, Oil and Gas, mediation and arbitration and E-commerce. He is now managing member of the law firm. His practice is heavily focused on international law and asset protection, where he counsels international clients on a wide variety of issues.

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Mr. Cibulas' practice focuses on trust and estate planning, business consulting, and taxation. Within these focus areas, he constructs well thought out succession plans for individuals with varying degrees of wealth, business interests, and classes of assets. Prior to starting the Law Firm of William C. Cibulas, P.C. in 2011, he provided (and still provides) legal related services to the accounting firm of Capital Accounting & Tax, Inc. These services cover an extensive range of both business and personal tax issues, which often times results in formal representation to various government regulatory agencies and judicial branches. He has since teamed up with Dr. Kasraie to assist clients with protecting wealth through constructing customized plans to fit the individual's specific needs.

Chapter One

Introduction to Asset Protection Planning

The purpose of this work is to provide you, the reader, with the information necessary for you to protect what you already own from unforeseen events. This technique is commonly referred to as “asset protection.” In its most broad interpretation the term “asset protection” simply means to keep your assets safe from others who may now or one day assert a claim to them. Your assets can be almost anything of value: real estate, cars, valuable personal possessions, stocks, investment accounts, notes receivable, business ownership interests, wages, and dividends being some of the more common asset examples. A “claim” on the other hand has the potential to be any number of different rights that someone else may attempt to assert in order to divest you of your assets. With this being said, in our context a “claim” shall refer to any assertion of right that has the potential to be reduced to a legal judgment if the claim were channeled through the judicial system. Once a claim is reduced to a judgment that judgment holder has the potential to levy (i.e. take) almost anything of value that you own. However, by implementing a functional asset protection plan your assets can be safe (to varying degrees) in the event you find yourself in this situation. With the information provided herein you will be equipped with the knowledge and tools that will allow you to set up your own asset protection plan.

How can you protect your assets? Many strategies exist that can be implemented, but two main goals are consistent throughout: (1) make the claim holder realize that to divest you of your assets will require an extraordinary amount of time, money, and effort; and, (2) build complex protection vehicles to house your assets, so that in the event a claim holder does engage in the tumultuous process to uncover your assets, the assets prove to be unreachable.

Who are the individuals and entities which may have the ability to assert such an intrusive right on your personal assets? They may be creditors, lien holders, judgment holders, business partners, business competitors, the government, or a soon to be ex-spouse just to name a few. We will collectively refer to this group as the “Takers.”

Now that we have a rudimentary understanding of the theory behind asset protection, it is necessary to consider some of the more prevalent factual scenarios in which a Taker could have a potential claim to your assets:

Accidents. Accidents occur all the time and they occur in a variety of forms. One common form of an accident involves motor vehicles. Thus, it is important for everyone to answer the following questions truthfully in regards to his/her own driving: Do you ever speed? Follow too close? Talk or text on your phone while

driving? Drive after having a couple of drinks? Because if so, you are putting yourself and your assets at risk. If you engage in these actions while driving, and you cause a wreck or hit a pedestrian (for example), the potential for liability is endless. This statement is true because personal pain and suffering damages are compounded each day that someone is injured. In other words, though it may vary by jurisdiction, in many places if you cause someone an injury the jury is told to award the value of pain caused multiplied by how many days the victim will have to endure such pain. This is obviously oversimplifying the entire industry of personal injury practice; however, it is done so to make a point, which is that the potential liability for compounded damages is endless. In other words, an accident that causes a permanent injury, such as a loss of a limb, sight, or paralysis, can carry a verdict that could be devastating to almost anyone's net worth.

Next, do you own your house and/or a rental property? If so, when you discover a hazard do you fix it right away? Perhaps you try, but of course maintenance and repairs require time and money, which may be limited when a hazard develops. How about routine maintenance...is it always conducted on time? To illustrate further, let's just say your child has a friend over to spend the night and they are injured in a fire because you didn't check the smoke detector and the alarm failed to go off that night, hence delaying evacuation of the home? In another scenario, perhaps your tenant called you to fix a leak, an electrical issue, or a few floorboards on the front or back porch? During your delay in fixing these issues an electrical fire may have started, or someone may have fallen through the leaking floor, or perhaps the leak caused mold that was inhaled or ingested causing respiratory problems, or finally, because of the broken floorboards someone tripped and fell off the porch -- any of these scenarios potentially causing a serious injury. Lastly, it is important to ask yourself how well behaved your children are. Have you ever caught them drinking in the basement with friends? Do you let them use the family car? How is their driving? Have you ever caught them drinking and driving? Where you live will dictate what your liability may be for your child's actions; however, costly litigation may be avoided simply for the reason that upon looking into your assets the Taker decides it is not financially worth the struggle to find and divest you of them. To conclude, as it pertains to accidents, although you believe you are sufficiently insured it is important to remember that (1) insurance policies have payout caps, (2) insurance contracts contain numerous coverage disclaimers, and (3) if your accident was caused by an illegal act (e.g. drinking and driving), you certainly will not be covered.

At this time it is important to note that the purpose of describing these scenarios is not to scare or frighten, but to demonstrate how accidents happen easily, all the

time, and to good and decent people. Furthermore it is important to understand that even though we may be able to protect ourselves from causing most accidents, it is practically impossible to protect yourself and your family from all accidents.

Contracts. Your home mortgage, your car note, your signature on the application for a credit card, promissory notes, co-signor/surety guarantees...these are all contracts. If you do not pay your bill and honor your contract, then you will be liable for the deficiency (and likely additional interest, penalties, attorney's fees, and litigation costs). There are two main points that you should note in regards to your contracts: (1) you cannot control market forces, and (2) however improbable, something could happen to your job (i.e. your income level). The importance of realizing that you cannot predict market forces mainly concerns your possessions that you took a loan out to purchase, and where that loan is backed/secured by that possession (i.e. a "secured transaction" or "secured debt"). The most common example is your house. As you probably already know, if you have a mortgage on your house (or other real estate) then you owe the amount of that mortgage regardless of what the underlying property is worth. This problem is no doubt in the forefront of many American's minds with the recent burst of the American real estate "bubble." In fact, this caused thousands upon thousands of property owners to be "underwater" on their mortgage (i.e. the underlying real estate is worth less than the note amount). The question then becomes, what do you do when faced to pay above market value on a depreciating asset? If you simply decide to walk away, you must know that the lender has the option of obtaining a deficiency judgment against you for the balance owed on the note minus what that asset (e.g. home) is sold for in this terrible market. Banks hire excellent lawyers and private investigators to uncover their debtor's assets and to decide who they will diligently pursue with a deficiency judgment; and, if they see you are an individual of means you should anticipate that the lender will use the judicial system to pursue deficiency against you. Of course if your assets have been legally protected prior to such time then the judgment holder will be bound by the confines of the law from where your protection plan was devised. This point is important because every single protection plan discussed throughout this document requires meticulous construction in accordance with the laws of the subject jurisdiction for the plan to be both effective and legal.

You are also undoubtedly a party to contracts that are not secured by underlying property. Examples of these contracts would be credit card debts and/or promissory notes. Any such unsecured debt can also be reduced to a judgment. However, by protecting your assets prior to such time you will find yourself in a more advantageous situation when negotiating with these unsecured creditors. If

there is no security to levy and their investigators anticipate a difficult road to uncover your assets (much less be able to seize them if adequately protected), then you certainly will increase your leverage at the very least and will have the ability to sleep well at night knowing your assets are protected.

Business Interests. If you own or are a partial owner of your business, then you are no longer just liable for yourself. You may also be responsible for the decisions of the business itself, along with the actions of your partners and your employees (in the field or in the office in regards to interaction with other employees). Also, specific business contracts and personal guarantees on business loans or leases can lead to personal obligations for the business owner.

In the event a Taker asserts a claim on your business, you no doubt are aware that if the business has its own assets that such assets are subject to claims. As an aside, it is important to note that these assets may also be protected by your asset protection plan. Nevertheless, the question then becomes, what about your personal assets? Are they susceptible to these business oriented claims? The answer is – they can be. Part of that vague answer depends on the act from which the claim is derived. The other part depends on your business structure. For example, a corporation or LLC has “limited liability,” where a partnership or sole proprietorship does not. However, even with limited liability it is not at all uncommon (in fact it is more common than not) that whenever a business is sued (especially a small business), the business owner is named as a defendant in the lawsuit, hence subjecting the owner to the costly litigation. For example, we have recently seen that as a result of the many bank failures around the country the government is also suing the defaulted banks’ executives who reaped sizeable rewards during the “boom” years to repay the FDIC for insurance claim payouts. As another example, you may recall the recent well covered case in the sports world where the president of the New York Knicks was included as a defendant when his former basketball star president of the team was found to be sexually harassing a female employee. Not only was that president found liable (and ordered to pay a large amount of money) but the owner of the team was also found liable for permitting the team’s work environment to be conducive to such behavior. Obviously behavior such as this (not necessarily sexual harassment but other types of harassment or discrimination as well) can be found in work places all over the country. So, business owners need to be cognizant of this and plan accordingly. With that being said, to conclude, a corporate (or LLC) structure is of course advised when owning a business (in opposed to owning it individually), but you need to know that ownership within an entity structure will not protect you from everything.

Divorce. The cliché is that 1 out of every 2 marriages ends in divorce. Regardless of whether or not that statement is completely accurate, you must at very least admit to yourself that there is the chance of your marriage ending in divorce. What occurs during a divorce? Basically your spouse transforms into someone you never met before (*via* manipulation by his/her advisors) who aims to defeat you at all costs, and logic is rarely used when decisions regarding alimony, child support, and division of marital assets are reached or rendered (if by a judge). Therefore, especially if in your household you generate the majority of household income, certain asset protection measures need to be implemented to protect what you have worked so hard to earn. The reason again is that your spouse, whom you now love and believe to be a logical and fair person, will attempt to grab every single asset possible in a divorce. Even inheritance, which most states protect as separate property, can become marital property if the right safeguards are not implemented. So if you are the beneficiary of an inheritance and you do not know what these safeguards are, then you may be putting your inheritance at risk. This is not about leaving your spouse with nothing if a divorce does occur; it is about having leverage at the settlement table to confidently promote what you believe is fair.

To conclude this section, it is important to note that if you ever find yourself in one of these situations and have yet to implement your asset protection plan, it may be too late. You absolutely do not want to risk a “fraudulent conveyance,” which essentially means that you transfer an asset for less than fair value in light of a claim or potential claim. Basically courts can completely reverse such transactions so it is important to plan for the unknown beforehand. In other words, the earlier you start your asset protection plan the more iron-clad it becomes.

Chapter Two

Basic Forms of Asset Protection

Prior to discussing a few of the more “basic” forms of asset protection, it is important to further define what a “fraudulent conveyance” is. As briefly discussed above, essentially this term means that you cannot give your assets away for less than fair market value when facing a potential claim, and thereafter expect those same assets to be out of the creditor’s reach. All conveyances will be scrutinized from the time the claim arose, not from when the claim is filed with the court. So, if you have been under the impression that in the event a potential claim were to arise then you would simply transfer your assets to a family member, friend, business partner, etc. (a/k/a “straw man”), and that your assets would be promptly returned when the dust settles, you are mistaken. In actuality the court will order the straw man to transfer any such assets to your claim holder to satisfy the debt.

How do you get around the fraudulent conveyance rules without giving up control of your assets? One of the simplest ways is to set up a business (again, prior to a claim arising) and then transfer your assets to the business. Your business could be an LLC or corporation (either subchapter “S” or “C”). If you are the sole owner of this business, then you control everything about the business, including the assets that comprise your business. However, although you may have just escaped the fraudulent conveyance pitfall, you must meet certain requirements to establish the legitimacy of your business. If your business is found to be illegitimate, the Taker will have the ability to “pierce the corporate veil” and reach the business’s assets. In its simplest form, “piercing the corporate veil” requires the claim holder demonstrate that your business has no other business purpose other than to act as your personal “alter-ego,” which it turns out is more often than not solely for the purpose of avoiding creditors. With that in mind, the question naturally follows: What is a valid business purpose? Well, to begin at the other end of the spectrum we know that an invalid business purpose is to, for example, “Avoid Creditors.” If your company’s filings state that the purpose of the business is to “Avoid Creditors” then if you were ever personally sued, the court would simply declare that the corporate veil be pierced and levy the business assets to satisfy your creditor’s claim. On the other hand, perhaps the business purpose is “Investment Management,” or perhaps you own real property and the purpose is “Real Estate Holding and Investment.” No one could argue that a profitable business could not manifest itself under either of these models. Therefore, you may have satisfied the requirement that your business have a legitimate business purpose. Continuing, to have a valid business you must operate your company in accordance with your jurisdiction’s rules. Do you have an operating agreement, take and approve your company minutes, have shareholder meetings, file a tax return...etc.? If so, then perhaps you truly do have a legitimate business that can withstand the claim holder’s attempt to pierce the corporate veil and divest the business of its assets. However, you still have an issue. That issue is

something called a “Charging Order.” The court can declare that, although you have a valid business, you are personally entitled to the business proceeds; therefore, the business must pay the claim holder those proceeds instead of you. Furthermore, any assets that are in the company that are unrelated to the productivity of the business would be scrutinized intensely by the court. For example, your real estate may be safe in your real estate investing company, but the stock portfolio you transferred into it may not be so safe. In this example, hopefully you can see that a “Charging Order” is better than “Piercing the Corporate Veil” (as your income is at risk with a charging order, but the hard assets contributing to the ongoing concern of the business are more than likely safe); nevertheless, it is vital to understand that you are still taking a risky chance with your assets under either of these models.

To summarize, this basic asset protection plan, whereby you move assets to an established business, has both benefits and pitfalls. The pros include that you have moved assets out of your possession, which mandates that your creditor expend time and money to find the assets and divest them from you. Being in this position will enhance your bargaining ability in settlement discussions at very least. The cons on the other hand include that if your assets do not fit into a business model it is very hard to protect them, as they can be outright levied or the entity can be “charged” to pay your creditor instead of you.

Another basic way that individuals may attempt to shield their personal assets is through a “trust.” A trust is an entity that is created by the “Settlor” and it holds property for a “Beneficiary,” which property is managed by a “Trustee.” The Trustee must act in accordance with the written terms of the trust (and the laws of the trust’s jurisdiction). A trust can be revocable or irrevocable. A revocable trust allows the Settlor to make changes to the terms of the trust, where an irrevocable trust, for all intents and purposes, cannot be changed. If a trust is going to act as an asset protection tool it must be irrevocable. For example, let us say that you set up a trust and put in \$100,000 for the benefit of your children, and you did this prior to a claim arising. Under those circumstances, it is more likely than not that this money would be protected from the Taker. If however that trust was a revocable trust, then the money is still considered to be a personal asset of yours and the Taker would have complete access to all the assets you placed in the trust. So, what is the downside to setting up an irrevocable trust and placing your assets in it? The answer is that you give up all control and no longer have access to the assets again (with certain exceptions). The assets are now strictly for the Beneficiary and managed strictly in accordance with the terms of the trust. For all intents and purposes you cannot be a Beneficiary of your own irrevocable trust, or the trust will lose its creditor protection. Therefore, unless you absolutely know you will not need the trust assets in the future, most people choose not to set up irrevocable trusts because they would lose control of their money (and any other assets comprising the trust). Of course, as we will discuss later,

certain rules do not necessarily have to be impediments to a carefully constructed asset protection plan.

For the trust to act as a real asset protection trust, it must effectually split the assets of the trust into two parts: the first being the “equitable owner” and the second being the “legal owner”. The equitable owner is entitled to benefit from the trust earnings and is considered the beneficial owner of the assets. The legal owner controls the assets of the trust but is not entitled to trust earnings. This way the creditors of the beneficiaries can only reach, if anything, the benefits given to the beneficiaries from the trust -- but not the trust corpus. One discernible difference between a trust and an LLC is that the asset held in the trust does not have to have a valid business purpose. In other words, it would be very hard to place \$100,000 in an LLC and claim that the business purpose was to generate interest by allowing the money to earn less than 1% per annum. However a trust does not have such a requirement and therefore safety would be less of a concern if the assets were ever in jeopardy. Another advantage of an asset protection trust is that the trust itself is quite transparent so it does not raise any “red flags” or portray acts of illegality. Attached you will find a simple trust document template to assist with drafting your personalized trust (see “**Appendix 1**”). As a general rule, you never want the Grantor (i.e. person that funds the trust) to be the sole Trustee of the trust. It is very important that if any issues arise that place the assets contained in the trust in jeopardy that your client does not have control of the trust.

So far we have talked about various forms of business entities and trusts that could be used to protect your assets. As you can see, there are both positive and negative aspects of each. Through utilizing either of these conduits you have taken assets off of your balance sheet and placed them on the balance sheet of the entity or trust. Either way you have made it more difficult for the Taker to reach your assets. However, besides from forming an irrevocable trust prior to a claim (and moving your assets into the trust), none of these options has placed concrete barriers between the Takers and your assets...especially if the claim is sizeable enough to pursue. Yes, you will have a bargaining chip at the negotiating table but your assets are still in jeopardy. Again, the reason why most of these plans will not sufficiently protect your assets is because you still have “control” of your assets through either your ownership in the company or trust. In other words, you must be willing to cede control of your assets to adequately protect them. What you will see however is that there are palatable ways to cede control while at the same time still overseeing control. By using a combination, and variations, of some of the basic asset protection vehicles already described, and by including very specific language in the operational documents of these vehicles (e.g. an operating agreement or trust agreement), and by setting up components of your asset protection plan in various carefully chosen jurisdictions, you can hedge against almost each and every concern that has yet so far been

raised. Designing a functional asset protection plan that will effectively keep the Takers at bay will require careful planning and skilled drafting by the creator, but this certainly can be done. The remainder of this guide will explain the steps you must take to establish this type of a plan.¹

¹ Taxes. It is important to note that regardless of the specific vehicle or combination of vehicles chosen to institute an asset protection plan, whether it be an LLC, corporation, trust, family LLP, etc., all asset protection plans discussed herein are tax neutral. In other words, there are no tax advantages or disadvantages to any of these strategies.

Chapter Three

Domestic Asset Protection Plans

As noted above, if you live in the United States, it is safe to say that there is not a single jurisdiction/state that will permit you to shield assets simply by transferring them into a separate entity that you also retain control over. There are however ways to (1) gain effective leverage at the bargaining table, and (2) almost completely protect your assets if you set up your plan early enough. The word “almost” is used simply because, if you are within the jurisdiction of the United States, a constitutional provision referred to as the “full faith and credit clause” makes a court judgment enforceable in any other United States’ jurisdiction, and it is virtually impossible to predict the opinion of every judge in this country.

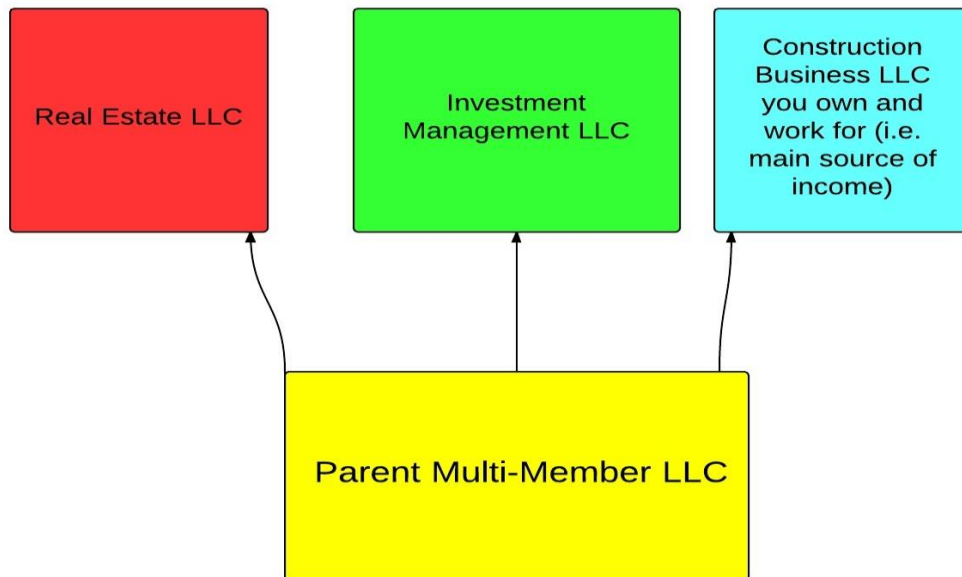
Bearing in mind the circumstances discussed above, let us begin by illustrating exactly how to “almost” completely protect your assets from potential Takers while at the same time remaining 100% subject to jurisdictions within the United States. As a disclaimer, if you truly hope to achieve this result then the most vital ingredient to this plan is timing. If you will recall from our discussion of the term “fraudulent conveyance,” essentially this rule states that you cannot give your assets away for less than fair market value when a potential claim exists. Not only that, but in the United States there is more often than not a three to six year statute of limitations (depending on your state) on such transfers. In other words, once a valid claim is made against you, it is often too late to start protecting your assets because any transfers made by you for less than fair consideration will be deemed “fraudulent.” For example, let us revisit the scenario noted above where your home value plummeted during the burst of the housing bubble, and you currently owe more for the mortgage than your house is worth. Perhaps you can no longer make payments on your devalued home (or rental home) and accept what will inevitably result in a foreclosure and ensuing deficiency judgment. Prior to failing to pay your monthly mortgage payments you transfer the majority of your assets to your children. Basically your lender (now a Taker) will be able to seek those assets you transferred to your children throughout the time of your state’s applicable statute of limitations, as the transfer of those assets were fraudulent conveyances. So, how is it possible to protect what you own in the event you find yourself in this predicament? The answer is -- PRIOR PLANNING. In other words, DON’T WAIT! If you act now, you can greatly improve your chances to (1) keep control of your assets, and (2) sufficiently protect them from the Takers. ²

² It is important to note that the plans described herein are not meant to work as “creditor avoidance” strategies. Once a creditor is known, if you have not endeavored to construct your chosen plan, then the guidance provided herein will be stale and obsolete. Asset protection is promoted as a pre-creditor method to protect assets and all actions undertaken through the prescribed measures of this book must be timely instituted to achieve desired results.

Let us now discuss the logistics associated with implementing a domestic asset protection plan. There are two main issues that you will have to comply with to sufficiently protect your assets: (1) you must at some level form an ownership company or trust in a state jurisdiction that is debtor friendly; and, (2) you must be willing to cede control if a triggering event occurs. To begin this process you must first form an entity in a debtor friendly state, and that entity must have multiple partners, owners, trustees, etc (depending on the entity you choose). Note that laws change, but currently a few states that incorporate some of the favorable attributes we look for in a venue include Delaware, Wyoming, Alaska, and Florida, among others. Thus, many other states may suit your needs. Next, you will want to include your other partners, owners, trustees, etc., in the formation of the entity from the onset, even if they have not contributed assets amounting the value that you have contributed, because this entity must be run just like any other multi-member entity. Therefore, you must hedge off any future assertions that the entity was a fraud (or entity created only for your benefit). To that end, entity minutes, yearly resolutions, an operating or trust agreement must be in effect and adhered to. In other words, run your entity as if it were General Electric or a philanthropic trust settled by Bill Gates. Fulfilling these requirements may appear to be a major commitment; however, it is something anyone can do so long as he/she is guided correctly and continues to act diligently once the setup is created.

Next, the first entity that you establish (the “mother entity”) will own at least a part of your current assets, or even better, own other entities that will own your current assets. To determine what, if any, intermediate entities you should have, you must first survey your assets and ascertain the potential for creditor risk. If you are a middle-aged real estate investor and you have cash and real estate, you may open up two subsequent entities--one for your real estate and another to hold liquid assets -- both of those entities would be owned by your mother entity. These entities would have the business purposes of real estate investing and diversified portfolio management, respectively. Each entity will more than likely be formed as a limited liability companies or family limited liability partnership (especially if you have children). The type of company formed is important because, as stated above, different assets may need to be placed in different companies and different people should be in control of the companies so that no one can either (1) assert that the business is not valid, or (2) be able to tie specific assets of the business to you personally. At the conclusion of this book you will find a general LLC operating agreement that may be used to achieve this purpose under “**Appendix 2**”.

The following is a simplified graphic example of what this structure could look like:



Lastly, and this is key with any asset protection plan -- there needs to be a “triggering event” in the entity’s operating agreement that removes you from control if such a triggering event occurs. These types of provisions are standard in any partnership or company agreement and state that, for example, if one of the partners files for bankruptcy, goes through a divorce, or has an accident that could end with a substantive personal liability, that partner, owner, trustee, etc. is removed from power and no longer has the ability to control the entity. Thus, if a liability ensues, you are not able to dispose of the assets of the entity, even if ordered to do so.

In this section we have outlined one of the best and most common ways to protect your assets without leaving the United States. Again, the keys to this basic arrangement are (1) timing, and (2) detailed crafting of the entity operating agreements. When your asset protection plan is implemented in a timely manner you will then be able to rest without apprehension and knowing your assets will be safe from your potential Takers. However, in the event that your asset protection plan was adequately crafted, but not in a timely manner prior to a claim arising, your asset protection plan would then turn into a “bargaining chip” at the negotiating table because you have still made it harder for the Taker to obtain your assets.

We have now discussed the necessary structure and noted the positive effects and pitfalls of instituting a domestic asset protection plan in the United States. Furthermore, sample documentation has been provided to assist in setting up your plan. As we alluded to, there are certain benefits that international asset protection plans enjoy that cannot be realized unless certain portions of your asset protection plan are moved to and set up in international jurisdictions. The remainder of this document will discuss all the relevant considerations when choosing whether or not to set up an international asset protection plan.

Chapter Four

International Asset Protection Plans

The first thing you should consider when you explore the possibility of setting up an international asset protection plan is the monetary value of the assets you wish to protect because the dollar figure may determine the structure(s) you should construct. The more elaborate the set-up, the more it costs. Therefore, the type of plan and the relative cost should relate to how much your assets are worth. Another fixed cost you need to consider is that there is a minimum expense involved in setting up even the simplest international structure since, as you will see, different countries have different initial entity set-up fees. As a rule of thumb, the minimum expense is \$5,000. Further, as a suggestion, if your asset pool is valued at less than \$500,000, plan to spend no more than \$5,000. This translates into a 1% ratio of set-up cost versus your total assets. However, this ratio does not hold true as the structure gets more complicated. For example, by the time the value of your assets reaches \$5,000,000, this ratio may be down to less than 0.5%.

Now we will begin by discussing the steps involved with setting up an offshore asset protection plan.

Jurisdiction -- You must first carefully analyze what jurisdiction is best for you to implement your plan. The reason I use the word *jurisdiction* versus *country* is that there are places that actually have a government, but are not considered countries. For example, Singapore is an independent city, but not considered a country. There are many jurisdictions you could utilize to set up your asset protections plan but you must choose the jurisdiction that is most suitable for what you want to accomplish. The following is a list of the variables you should consider when measuring the suitability of a given jurisdiction:

- a. **Stability:** It is important that your jurisdiction has a stable government and is run by a rule of law. Some jurisdictions are subject to ongoing political upheaval and unrest, which makes them dangerous to conduct business in, regardless of how favorable some of their laws may be. Jurisdictions of this nature are not suitable for housing your asset protection plan.
- I. You should check the jurisdiction for political and financial stability – do this for the past 20 years. While examining, ask yourself the following questions:
 - Do you find a stable and calm system, or is it subject to disturbance and volatility?
 - Did the jurisdiction change government structures numerous times?
 - Is the jurisdiction run by the rule of law or rule of mob?

- How often do the laws change?
- Finally, what is the general reputation of the jurisdiction?

Obviously, some jurisdictions, such as Switzerland or Luxembourg, do not need extensive, or any research at all, but you will pay for this safety. This is not necessarily to say that these are the best two jurisdictions to institute your asset protection plan in, it is more that these jurisdictions are relatively non-volatile and you will receive consistent treatment under their laws. On the other end of the spectrum, currently Cyprus has a terrible reputation based on recent events that includes essentially stealing a percentage of all bank accounts with deposits over a certain amount.

b. Receptiveness

- I. Is the local government receptive toward foreigners forming companies and trusts in their jurisdictions?
- II. Note that many of the jurisdictions do not favor foreigners using their systems as vehicles without investing in the jurisdiction. This issue must be researched and weighed prior to choosing it as your jurisdiction.

c. Financial Institutions: Although most jurisdictions in the world have banks and banking systems, many of them are far from being considered ideal. What you are looking for is a banking system that is recognized by other country's major banks and that those other country's banks have business relationships with the subject country's banks. We also want there to be banks that are automated and can be accessed via internet. With that being said the most important element in choosing a jurisdiction, relevant to its banking system, is that there are no restrictions in the jurisdiction's currency movement. In essence, there should be no restriction in currency repatriation. Consider the following when analyzing a jurisdiction's financial institutions:

- I. Does the jurisdiction have banks and/or financial institutions that are accepted by the world financial community?
- II. Does it have a stable currency?
- III. Does it allow currency repatriation?
- IV. Does it limit currency transfers?
- V. Does it have a history of privatizing businesses and banks?
- VI. Does it back its currency or is its currency afloat?

VII. Has its currency kept a reasonable exchange rate with your currency?

VIII. Does it have internet banking?

- d. **Legal System:** You should look into the legal system of the jurisdiction; specifically in regard to how its legal system treats foreign judgments. Some jurisdictions' legal systems readily honor and accept any foreign judgment. On the other hand, some jurisdictions either totally disregard or are very reluctant to honor foreign courts' judgments. This is a very important issue to which you should pay close attention. Furthermore, in some jurisdictions, if a person forms a company a 51% share of that company must be owned by a local citizen. However, this requirement alone should not deter you from going to that jurisdiction if all other considerations are favorable for you because, customarily, there are loop holes around the ownership requirement.
- e. **Trust Laws:** Is the jurisdiction supportive of its local trust laws? Most jurisdictions, in one way or the other have trust laws, both for local and sometimes international citizens. Our main concern is the laws related to international trusts. Some jurisdictions take the concept of what constitutes an international trust very lightly, and such structures are merely paper ones (in opposed to substantive). On the other hand some jurisdictions are very protective of their trust laws and take any and all legal action to protect the trusts that are properly formed in their jurisdiction from potential adverse claimants.
- f. **Foreign Judgments:** Does the jurisdiction honor foreign judgments? This consideration is also very important in selecting a jurisdiction to establish your asset protection trust. Many jurisdictions readily accept any foreign judgment as if it was adjudicated and issued locally and act on it accordingly. Obviously, these are not suitable for your purpose. On the other hand there are some jurisdictions that totally ignore foreign judgments. In such places your potential adversary must file his case in that jurisdiction all over again and hope that he/she again prevails and is subsequently able to succeed and reach into your pre-existing trust's assets. Jurisdictions with these characteristics are better suited to set up your asset protection trust in. There are also some jurisdictions that fall between these two extremes. Jurisdictions in the middle may not readily accept foreign judgments and the claimant must domesticate the judgment before he/she could benefit from original judgment, but the difficulty of the process associated with domesticating judgment will vary.
- g. **Taxation:** Some jurisdictions do not impose any taxes on any income earned outside of the jurisdiction. In another words, they do not have worldwide

income taxation. Therefore, if you form an international business corporation or an international trust in such jurisdictions, as long as such entities are not earning money within those jurisdictions, the entities are exempt from taxation. There are also jurisdictions that impose some taxes on income, but at far lower tax rates than are imposed on income in other jurisdictions. There are also places that impose taxes on income, but at pre-negotiated rates.

- h. Statute of Limitations for Fraudulent Conveyance:** What is the length of the statute of limitations for fraudulent conveyance? When a person moves his/her asset, either directly or indirectly into a trust, usually before any adverse event occurs, the opposing side may still claim that such a transfer was purely for the purpose of denying the claimant his/her rightful share of the asset and therefore such transfer is a “fraudulent conveyance.” Timing then becomes important, as the issue will be, how long before the adverse event occurred did the transfer take place?” This particular time period is referred to as the “statute of limitation” for fraudulent conveyance. Obviously, the shorter this period the better it is for establishing the asset protection trust. Presently, 2 years seems to be among the shortest.

After analyzing the jurisdiction’s overall culture by examining the general topics noted above, you should ask yourself the following specific questions about each jurisdiction:

- i. How is a spendthrift clause (as in a U.S. model spendthrift clause) or Protective Trust (non U.S. model) treated?

Different jurisdictions have different types of clauses that function like a U.S. spendthrift clause; but, functionally they are the same.

- j. To what degree does the jurisdiction honor foreign court judgments (in re asset protection trusts)?

Some jurisdictions, such as the Cook Islands, Nevis and St. Vincent-Grenadine require that the plaintiff bring the charges in their jurisdiction and do not, in general, honor or domesticate foreign judgment.

- k. What is the jurisdiction’s standard of proof for fraudulent conveyance? Obviously the higher burden of proof required the better it is for the trust owner. Many jurisdictions simply use the “preponderance of evidence” standard of proof to prove fraudulent conveyance. But, some jurisdictions use the criminal standard (beyond a reasonable doubt) as the required burden to prove fraudulent conveyance.

- l. Does the jurisdiction require proof of actual fraud?

The jurisdictions that require proof of actual fraud make it very hard for the potential creditor to win against the trust.

- m. Issues of insolvency and bankruptcy of the Settlor.

Some jurisdictions do not honor the asset protection trust if the Settlor was either insolvent or bankrupt at the time he was forming the trust. However, this is not the case in many jurisdictions that are considered for the purpose of setting up an asset protection trust.

- n. Does the jurisdiction have an anti-duress clause in their statute?

An anti-duress clause refers to a clause in the trust which instructs the trustee NOT to pay anything the beneficiary, if such beneficiary is under pressure (under duress) by creditor(s).

- o. Does the jurisdiction follow English Common Law or other legal system?

Generally speaking, the jurisdictions that follow the English Common Law (almost all former British colonies) have better protection for the trust structure. However, frequently jurisdictions have made major changes to the old common law for the trusts.

- p. Where does jurisdiction stand on the “rule against perpetuity?”

Although a majority of jurisdictions have gotten away from applying this rule, it is important that you check.

- q. Does the jurisdiction allow the settlor to choose the forum?

Some jurisdictions allow the settlor to choose the forum of any jurisdiction if a case is being filed against the trust/trustee/settlor and or beneficiary.

- r. Does the jurisdiction allow the settlor the choice of law?

Some jurisdictions allow the settlor to choose any jurisdiction’s law desired to be applied to his/her trust.

- s. Does the jurisdiction allow the settlor to move the trust?

Some jurisdictions allow settlor to move the trust outside of the jurisdiction if a case is being filed against the trust/trustee/settlor and or beneficiary.

These are all variables you need to consider when specifically tailoring your plan. In the following chapter we will discuss the jurisdiction specific answers to some of these questions and provide you with additional research resources.

Chapter Five

Potential International Suitors

This section discusses some of the details relating to jurisdictions that have historically been considered advantageous to establish entities targeting to protect assets from future creditors.

Andorra

There is no codified law regulating trusts in Andorra. The basis of the trust regulation is derived from Old Catalan principles. However, the recognized form of trust in Andorra follows the Anglo Saxon format. The income of the trust is exempt from Andorran tax and there is no minimum corpus requirement. A trust may have a trustee, a settlor and beneficiaries. Since there is no registration requirement, the process is fairly confidential.

Antigua & Barbuda

Antigua and Barbuda have a fairly extensive trust laws and they take it very seriously. In 2007 Antigua & Barbuda passed The International Trust Act. It, *inter alia*, requires the trustee be a resident of Antigua & Barbuda. The following URL will take you to the text of the Act:

http://www.investantiguabarbuda.org/downloads/The_International_Trust_Act_2007.pdf

Bahamas

The Bahamas have a fairly extensive trust law that has been evolving over the past 20 years. Some important elements are that the statute of limitations is 2 years, the settlor cannot be insolvent at the time of trust formation, and there should not be an indication that that settlor's intention is to avoid existing liabilities.

The following URL will take you to this set of laws so you can read for yourself:

http://www.bfsb-bahamas.com/legislation/Trustee_Act.pdf

Barbados

Barbados is among one of the jurisdictions that dedicates a full section of their law to international trusts. Some of the more prominent sections declare:

“Where a trust is validly created under the law of Barbados the court shall not vary it or set it aside pursuant to the law of another jurisdiction in respect of:

(a) the personal and proprietary effects of marriage;

(b) succession rights, testate and intestate, especially the legal right of surviving spouses and the shares of relatives;

(c) the protection of creditors in matters of bankruptcy, unless there are corresponding laws in Barbados.”

“The burden of establishing an intent to defraud for the purposes of this Act shall be upon the creditor seeking to set aside the disposition.”

“No action or proceedings shall be commenced pursuant to this Act later than 3 years after the date of the relevant disposition.” This means the statute of limitation is 3 years in Barbados.

“The fact that a settlor of a trust is a beneficiary under the trusts or a trustee thereof does not per se constitute an intent to defraud.”

<http://www.investbarbados.org/docs/International%20Trusts.PDF>

Belize

Belize follows the old British Common Law. Some of the more notable parts of the Belize Trust Law state:

“Where a trust is created under the law of Belize, the Court shall not vary it or set it aside or recognize the validity of any claim against the trust property pursuant to the law of another jurisdiction or the order of a court of another jurisdiction in respect to –

(a) the personal and proprietary consequences of marriage or the termination of marriage;

(b) succession rights (whether testate or intestate) including the fixed shares of spouses or relatives; or

(c) the claims of creditors in an insolvency.”

“Any rule of law or public policy which prevents a settlor from establishing a protective or a spendthrift trust of which he is a beneficiary is hereby abolished.”

<http://www.ifsc.gov.bz/downloads/trustsact.pdf>

Bermuda

Bermuda follows the Old British Common law. Bermuda trust law, which was established in 1975, 1989 and amended in 2001, like Belize, has phrases that include, the “[c]ourt shall not vary or set aside” the terms of a legally established Trust due to a foreign judgment, etc. One interesting aspect of the Bermuda trust law is that it allows a private company (called a private trust company or PTC) to act as the trustee of a trust. Such a structure gives rise to many innovative ideas in asset protection planning. For example the PTC could be owned by another trust. That could conceivably create a situation that the Settlor has some level of control over the trust but not the authority to remove the trustee. However, if one forms a “private trust company” the person must declare the name and address of the beneficiaries to the government (Bermuda Monetary Authorities). The same entity may however insist that such information remains confidential.

Ordinarily Bermuda courts do not enforce foreign judgments under the auspices of lack of jurisdiction. The following URL, provides more detail of Bermuda laws:

[http://www.bermudalaws.bm/Laws/Annual%20Laws/2002/Acts/Trusts%20\(Regulation%20of%20Trust%20Business\)%20Amendment%20\(No.%202\)%20Act%202002.pdf](http://www.bermudalaws.bm/Laws/Annual%20Laws/2002/Acts/Trusts%20(Regulation%20of%20Trust%20Business)%20Amendment%20(No.%202)%20Act%202002.pdf)

British Virgin Islands (BVI)

BVI follows the Old British Common Law. Trust laws were introduced some time ago and later amended in 2003 through the Trustee Act. BVI requires that at least one of the trustees be a BVI resident. A different requirement from most other jurisdiction is that BVI requires that a trust must have an enforcer.

BVI laws, in general, disregard foreign judgments against the settlors or the beneficiaries and consider it contrary to its public policy.

Cayman Islands

Cayman Islands follow the Old British Common Law. In 1997 government introduced the concept of a private purpose trust. Trust laws have been frequently revised and updated. In Cayman Islands, the potential creditor has the burden of proof and must file in Cayman Islands and not in creditor’s jurisdiction. In potential creditor’s action it must prove that it is an eligible creditor and the intent to defraud on the part of the settlor. Furthermore, in Cayman Islands registration of the trust is voluntary; therefore most of the trusts remain a private arrangement.

The following links provide websites for better reference:

[http://www.ciregistry.gov.ky/pls/portal/docs/PAGE/REGHOME/FOI/DOCLIBRARY/THE%20TRUSTS%20LAW%20\(2009%20REVISION\).PDF](http://www.ciregistry.gov.ky/pls/portal/docs/PAGE/REGHOME/FOI/DOCLIBRARY/THE%20TRUSTS%20LAW%20(2009%20REVISION).PDF)

2011 revision:

[http://www.legislativeassembly.ky/pls/portal/docs/PAGE/LGLHOME/BUSINESS/BUSINESS/BILLS/BILLS20102011/TRUSTS%20\(AMENDMENT\)%20BILL%2C%202011.PDF](http://www.legislativeassembly.ky/pls/portal/docs/PAGE/LGLHOME/BUSINESS/BUSINESS/BILLS/BILLS20102011/TRUSTS%20(AMENDMENT)%20BILL%2C%202011.PDF)

Cook Islands

Cook Islands follow the Old British Common Law. However, they have modified it a great deal. Cook Island legislators introduced the laws for asset protection in the mid-1980's, which were among the very first in this field. Cook Islands according to cognoscenti may be considered one of the best jurisdictions for asset protection trust purposes. Among the key issues in the trust law includes:

1. 2 year statute of limitations.
2. Courts usually do not honor foreign judgments; especially if there is a conflict of laws.
3. The law provides much wider latitude to the settlor's rights and power. However, this power should be utilized wisely, since such authority may give power to the local jurisdiction to force the settlor to transfer the asset back to such jurisdiction.
4. If one creditor manages to succeed and obtain a judgment against a trust, that does not affect the integrity of the trust and others must go through the same arduous procedure.
5. One may form a trust in Cook Islands or move an existing trust there and enjoy the grandfather clause of the law.
6. Insolvency and bankruptcy of settlor does not impact the integrity of the trust.

Dubai

Although Dubai provides a fine level of anonymity and great financial services, their asset protection laws are not as developed as many other jurisdictions. However, since there is no corporate tax in Dubai, many find it beneficial to form their trust there.

Guernsey and Jersey Islands

This series of islands has an unusual legal system. It is a combination of French and British old common law; yet the system functions fairly well. It is advertised that these islands are, among smaller jurisdictions, great places to set up an asset protection trust and for a while that was somewhat the case. However, recent litigation has proved that it is rather easy to freeze the assets of a given trust here. Furthermore, under the British government pressure, the tax advantages of these islands have effectively vanished. One interesting point about trusts in these islands is that they usually do not require a resident trustee.

Isle of Man

This jurisdiction follows old English common law, but has made major changes to it. The following is a good URL for a quick look at its laws:

<http://www.gov.im/lib/docs/iomfinance/brochures/form2.pdf>

In this jurisdiction setting a trust does not require registration, thus it remains a private relationship between the settlor and trustee. It also is noteworthy that it has a fairly good banking and telecommunication system.

Liechtenstein

This jurisdiction, due to its geo-political setting, is one of the oldest to offer asset protection trusts (well before World War II). Its banking, telecommunication and judicial systems are fairly accommodating in this jurisdiction. However, it is extremely important to consult with a local tax expert to make sure all tax aspects are addressed when you form a trust in Liechtenstein.

In general, with exception of judgments from Austria and Switzerland, Liechtenstein does not readily honor other countries' judgment. Therefore, the potential creditor must file locally. A deterrent factor for such a claimant is that the loser must pay all legal fees.

Nevis

Nevis codified its rules for trusts under "The Nevis International Exempt Trust Ordinance, 1994, as Amended to April 1995" (see: [http://www.intrust.com/Trust Ordinance.pdf](http://www.intrust.com/Trust%20Ordinance.pdf)). In general, Nevis has followed the trust laws of Cook Islands. Therefore many advantages seen in trusts created under the laws of the Cook Islands are in Nevis trusts as well. These include, but are not limited to, requiring potential creditors to file in Nevis, no matter what kind of judgment has been granted to them from another jurisdiction, and the insolvency

and bankruptcy of settlor does not impact the integrity of the trust. Nevis has fairly secure banking, judicial, and communication system. Nevis is also considered among one of the better jurisdictions for setting an asset protection trust.

Singapore

Singapore has been financial center in Far East for many years. It has a fairly good banking, judicial and telecommunication system. Trusts in Singapore do not have to be registered, thus conceivably provide a level of confidentiality. Settlor's bankruptcy and/or insolvency does not affect the integrity of the trust. If the trust is properly set up as an international trust, the distribution of benefit to beneficiaries is exempt from Singapore tax.

St. Vincent-Grandine

St. Vincent-Grandine ("St. Vincent") being a former colony of the United Kingdom, follows the old British Common Law. St. Vincent's trust laws closely follow the ones of Cook Islands and Nevis. However, they have added some parts to their laws that set them apart from the ones of Cook Islands. For example, they require the potential creditor to post a substantial bond if such creditor wishes to bring an action against the trust or its settlor in St. Vincent. St. Vincent is very protective of the trusts that are formed there and they have made it rather difficult for potential creditors to prevail against the trust. St. Vincent too has a short statute of limitation (2 years), and the potential plaintiff must prove fraud on the part of the trust and/or settlor. Furthermore, if plaintiff loses the case, the court uses the bond money to pay off the legal cost of the defendant. St. Vincent does not allow the settlor's insolvency or bankruptcy to affect the integrity of the trust. St. Vincent has fairly good banking and communication system and in general is more reasonable than its rivals in this field. St. Vincent, along with Cook Islands and Nevis, is among better jurisdictions for asset protection planning.

Switzerland

Switzerland has been one of the most stable financial centers in the world. Throughout the ages Switzerland's banking and banking laws have been a haven for many fortunes. It is true that in the recent decades foreign governments and human rights activist have chiseled away some of the mysteries surrounding this financial center, but still it is one the most famous places for asset protection. However, with all the banking facilities and fund management in Switzerland, the concept of a trust law had not been fully developed until the early 2000's. Since Switzerland has not been a Common law jurisdiction and they had not used Common law before for their trust laws. So, Switzerland has combined the Old

Common law with trust law in the continent. There are many unusual and unique characteristics in Swiss trusts, including, *inter alia*:

1. A trust may be owned by a “bearer share company.” This makes it very hard to trace the trust to its settlor or its beneficiaries.
2. Settlor may choose the jurisdiction for any dispute against its trust. This means settlor may choose the friendliest jurisdiction toward asset protection trusts, such as Cook Islands or Nevis, where his trust is in Switzerland. Then, if a potential claimant wishes to reach the content of the asset, he first have to go to the forum selected by the settlor and obtain the judgment, before trying to domesticate it in Switzerland.
3. Settlor may choose what jurisdiction’s laws should apply to its trust.
4. The jurisdictions chosen in number 2 and 3 above do not have to be the same.

However, one of the downsides of establishing a proper asset protection trust in Switzerland is that it can be fairly expensive.

Chapter Six

Construction of International Asset Protection Plans

Once you have decided on the jurisdiction(s) you wish to work with, you will have to actually institute a plan, construct the various entities, transfer assets, and draft the necessary documents to achieve the desired protection. To help assist in what is required and provide you with a general idea of how certain plans are constructed, we will continue by discussing three tiers of plans that all have international components, with the “3rd Tier Plan” being the most intricate.

The 1st Tier International Plan (“1st Tier Plan”) begins by forming an LLC similar to the formation of an LLC that was discussed in the Domestic Protection Plan above, only this time the LLC will be formed in the international jurisdiction that you have chosen. We do not recommend using the do-it-yourself websites online that promise they will form a company for you. There are many horror stories about those websites, which include:

- a. The online entity charged to open a corporation in an off shore jurisdiction and never performed;
- b. The online entity charged to open a corporation in an off shore jurisdiction and the corporation was formed, but the online entity became a partner in the corporation and subsequently took over the corporation;
- c. The online entity charged to open a corporation in an off shore jurisdiction and the entity provided a complete insufficient documentation to accomplish the client’s goals;
- d. The online entity charged to open a corporation in an off shore jurisdiction and the applicant’s identity was sold to third parties.

We recommend that if you are uncomfortable instituting any piece of your plan on your own that you carefully vet the business, professional, or other referred third party you may seek assistance from to ensure the quality of the work product you receive.

Now, once you formed your company, you may use the Operating Agreement template provided in Appendix 2 hereof and add what you intend to do with the LLC and all other relevant information. You must then transfer any assets you wish to be owned by the LLC to the LLC via the correct legal route (discussed further below). The entire process may cost you anywhere between five to fifteen thousand dollars, depending on the jurisdiction and your traveling costs. For example, formation of such a company in Switzerland or Dubai would be on the higher end of the cost estimate. In addition, please remember that each jurisdiction may require a slightly different operating agreement for the respective

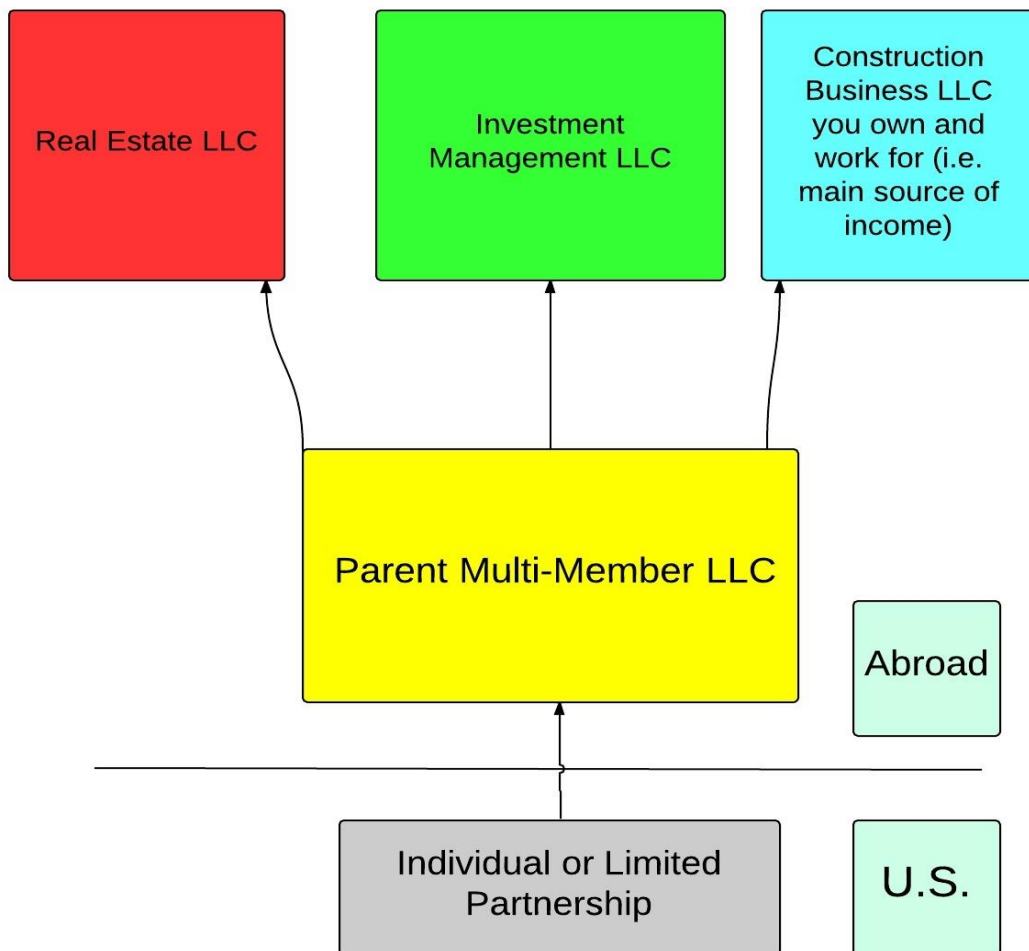
LLC. Therefore, you need to familiarize yourself with the local laws and regulations in re Limited Liability Companies before finalizing your Operating Agreement.

Other issues that you may want to pay attention to include:

- a. Calculate the annual cost of maintaining this type of LLC. Such costs may include the local government's LLC license renewal fee and remuneration for your local representative.
- b. You need to secure some form of physical address for your LLC in the respective jurisdiction. Some jurisdictions allow a post office box with forwarding facilities. It is important to remember that this system is a dynamic system and it may change at any time base on the changes in the laws of the given jurisdiction. Therefore, even after you form the LLC and move your assets, you need to keep up with the local changes of the relevant laws.
- c. Make sure whatever mechanism you put in place to fulfill the requirement of local physical presence that you do not miss any notices sent to you by the local government.
- e. In some Jurisdictions, you are still allowed to form a company with bearer shares. This means your name is not mentioned as a shareholder of the company. In effect, whoever holds the shares, owns the company. This type of company has pros and cons associated with it. Obviously, in bearer share companies all trace of you disappears from owning anything in that company. Therefore, it would be very difficult for an adversary to recover opposing judgments from the company. However, there may be some adverse tax consequences concerning the transfer of your assets to, effectively, a third party.
- f. Once this LLC is formed and fully registered, you transfer all your assets that you intend to protect ("Assets") into that company. Please remember that most, if not all, of such transfers are on paper only. Please discuss this asset transfer with your accountant to make sure you do not have any adverse tax consequences. Please note that you are responsible for ascertaining any tax consequences related to formation and all transfers to/from this LLC.
- g. Upon setting up your entity and correctly transferring your property, if a creditor or any other adversary managed to obtain a judgment against you in your residence jurisdiction, in order for him/her to monetize that judgment, she/he would need to go to the Jurisdiction where your LLC is and try to domesticate that judgment. Now, if you have chosen the right Jurisdiction, as we

discussed earlier, he/she would have a very difficult, expensive, or perhaps impossible task.

The following is a simplified graphic example of what this structure could look like:



Continuing, you may feel the need to add a further layer of protection. Remember, the more entities and structures, and favorable jurisdictions involved, the more time, money, and effort the claim holder will be forced to expend to satisfy a claim (if there is even a chance of success at all). If you wish to add further layers, you should consider implementing the following additional steps:

First, once your first LLC is properly formed and registered, go to a different jurisdiction of your choosing. Remember, when considering your next jurisdiction, you need to conduct the same due diligence analysis you performed to select the first jurisdiction. The second LLC will be wholly owned by the first. Next, once the second LLC is also formed and fully registered, then you transfer your assets to the second LLC. Now, once again, if a creditor or any other adversary managed to obtain a judgment against you in your resident jurisdiction, in order for him/her to monetize the judgment that creditor would need to go to the first Jurisdiction and try to domesticate that judgment. If the judgment holder manages to succeed there and obtains a local judgment against you, he/she has to go through the compounded hardship and expense of going through the second jurisdiction to again domesticate the judgment. As you can imagine, this process is an extremely consuming hardship that only a few may choose to undertake, and where even fewer may ultimately succeed.

The next step is to consider using The 2nd Tier International Plan (“2nd Tier Plan”). The 2nd Tier Plan is for those who feel more comfortable keeping the ownership of their company on U.S. soil, but also desires the protections offered in the 1st Tier Plan. Basically, in this 2nd Tier Plan you will form a domestic LLC; however this domestic LLC will be owned by your foreign LLC(s). Once this new domestic LLC is set up, you then transfer ownership of your assets to the domestic LLC³. Effectually, this still forces your creditor to travel through each jurisdiction you choose internationally and engage in the rigors described through our discussion of the 1st Tier Plan, but now the creditor must come back to the U.S. to the jurisdiction of your choosing and again domesticate the judgment. In other words, your U.S. creditor does not get to circumvent the international burden if you choose to bring ownership of your assets back to the U.S.

Finally, it is time to discuss The 3rd Tier International Plan (“3rd Tier Plan”). Throughout our experience, this is the most effective asset protection plan there is.

You again start by researching the jurisdiction(s) where you may desire to conduct business. Weigh all the considerations stated herein throughout. Once you have decided on your jurisdiction(s) this time you will begin by forming a domestic trust, which we will refer to as “Trust 1” (if necessary, please review the inner workings of trusts in previous

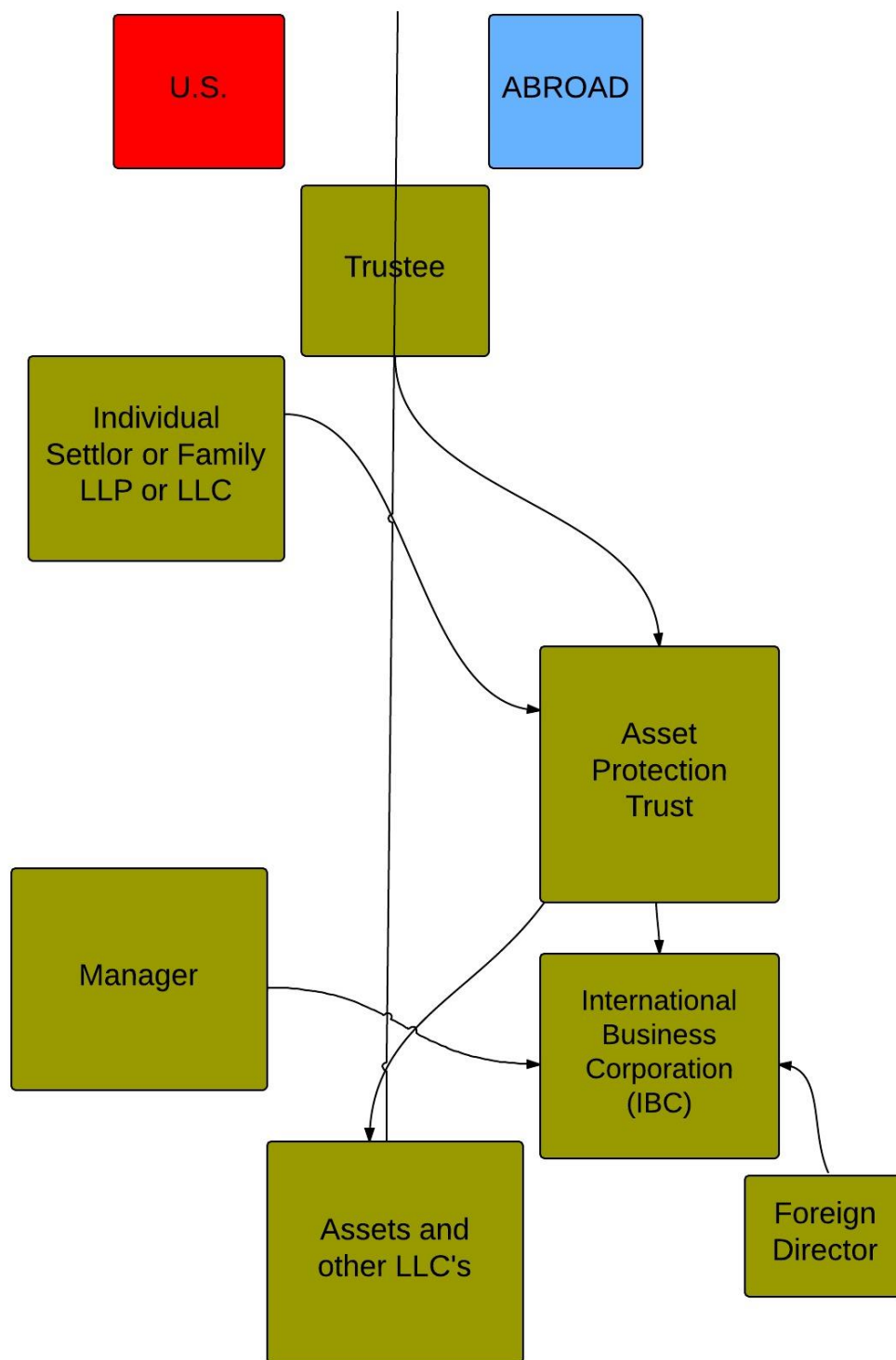
³ Please note, though not paramount, it is advised you consider forming your LLC in a favorable U.S. jurisdiction under the considerations mentioned in the domestic plan discussion earlier in this work.

sections within). If you have a trust already you may be able to use that existing trust. Also, as previously mentioned, a simple trust template has been provided as “Appendix 1”. At the same time you must form an international LLC or International Business Corporation (“IBC”) in the very same way as has been advised in the 1st and 2nd tiered plans. We do recommend the IBC structure be used for this 3rd Tier Plan. A simple operating agreement for your company has also been provided as “Appendix 2”. This company will end up being the beneficiary of your Trust. The next step is crucial, which is to form an international trust (“Trust 2”) in a different jurisdiction from where you formed the IBC. In Trust 2, you need to implement a triggering mechanism which in effect, if the mechanism is triggered, the structure of the trust changes against the potential adversary. Most jurisdictions that you will choose for your purposes take the acceptance of these triggering mechanisms very seriously and often they do not allow any foreign judgments to interfere with the trust. We previously enclosed a few trust laws and links to where such laws can be viewed in order to give you a better idea of what we mean by this statement. You may review the laws yourself to see the expressed acceptance of these types of mechanisms.

Once you have completed Trust 2, it is actually Trust 2 that will own majority of your IBC. Under this scenario, your practical exposure is very limited, even if the potential adversary managed to domesticate its foreign judgment.

Continuing, as previously stated it is the implementation of the triggering mechanism that makes this 3rd Tier Plan so special. Of course language is also included in Trust 2 that states no judgments or liabilities will be paid that would endanger the survival of the trust corpus (i.e. creditor protections). What does this mean? It means that the trustee is obligated by law not to pay your potential creditor claims. What is also extremely important is that the trustee can continue to pay you for managing your IBC so your income can continue. Again, the jurisdiction(s) you choose are very familiar with these vehicles and comprehensive plans and it is those jurisdictions strict adherence to the rules that make them beneficial for these protection formats.

The following is a simplified graphic example of what this structure could look like:



You are now equipped with the knowledge and tools to form a domestic and international asset protection plan. These structures are formed everyday all over the world. As long as you carefully follow the techniques articulated in manual, you will be able to create your own protection plan. Each consideration that is expressly stated herein must be followed exactly to give your model its best chance of fulfilling its purpose. Basically, while debating if a more complicated plan is necessary for you, you may ask yourself:

Do I own a business or practice in a profession that is more prone to litigation?

Can I foresee myself being sued in the future for notable reasons?

Am I considering an action that will inevitably involve court intervention (ex. breaching a loan or contract or divorce)?

Have I already breached a contract or done something that will give rise to an ensuing lawsuit?

Do I currently have a judgment or other court order that has put my assets at risk?

Lastly, am I one of those individuals who just prefer as much protection as may be available?

If any of these answers is “yes,” then we suggest you consider the additional degrees of protection that have been described throughout.

APPENDIX 1 - SAMPLE TRUST DOCUMENT

Below is a sample Trust. Please bear in mind when you are completing your Trust the following points:

- This Trust is merely a sample. However, we highly recommend that you adjust it according to your specific conditions and other relevant issues.
- This Trust is written as an irrevocable trust. All planning to decide whether an irrevocable trust suits your situation must be done prior to any transfer of property into the trust, as any such transfers would be irrevocable.
- We highly recommend that when you choose a Trustee that you enter into an employment agreement with him/her and include duties and a compensation agreement.

**THE DOE TRUST
DATED JANUARY 1, 2000**

IRREVOCABLE TRUST
FOR THE BENEFIT OF THE FOLLOWING INDIVIDUAL FOR LIFE:

- JOHN DOE II

WITH A REMAINDER INTEREST TO:

- JOHN DOE III

CREATED BY:
JOHN DOE, Grantor
on January 1, 2000
by Agreement with
JANE DOE, Esq., Trustee.

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ARTICLE:

ONE: Identification of Parties.....

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SIX: Grantor's Goals in Establishing this Trust

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EIGHT: General Authority of Trustees and Powers by Reference.....

STATE OF _____ :
COUNTY OF _____ :

THIS AGREEMENT AND DECLARATION OF TRUST is made this 1st day of January 2000, by JOHN DOE, of _____ County, _____ (state), as the creator of this Trust (hereinafter referred to in said capacity as "Grantor"), and JANE DOE, Esq. as Trustee (hereinafter referred to in said capacity as "Trustee"). This trust shall be known as THE DOE TRUST DATED JANUARY 1, 2000. This trust agreement provides for the creation of an irrevocable trust for the benefit of Grantor's son, JOHN DOE II (also referred to herein as "Beneficiary") for as long as he may live and with a remainder interest to Grantor's grandson, JOHN DOE III (also referred to as the "Remainder Beneficiary").

INTRODUCTION & TRANSFER OF PROPERTY

Grantor desires by this instrument to create an irrevocable trust, the Trustee of which shall hold

(i) Ten Dollars (\$10.00), which is hereby assigned, conveyed, and delivered by Grantor to the Trustee, and receipt of which is hereby acknowledged by the Trustee, and

(ii) Any other property which may be assigned, transferred, conveyed, and delivered by Grantor or by any other person at a later date to the Trustee in this trust for the purposes and uses and upon the terms and conditions hereinafter set out, and

(iii) This trust shall be irrevocable and shall not be altered, amended, revoked, or terminated by the Grantor or any other person.

The name of this trust is "THE DOE TRUST DATED JANUARY 1, 2000." Transfers to this trust may be made to: "JANE DOE [(or successors thereto)], TRUSTEE U/A THE DOE TRUST DATED JANUARY 1, 2000."

ARTICLE ONE

Identification of Parties

[Describe as desired]

ARTICLE TWO

Trustee

A. Trustee

The original Trustee of this trust is JANE DOE, Esq. If the original Trustee should cease or be unable to serve as Trustee, the successor Trustee shall be _____ BANK, (or its successors).

B. Corporate Trustee

If at any time there is not a Trustee qualified and serving hereunder, a majority of the then living current Beneficiaries, excluding any contingent Beneficiaries, of this trust may appoint a successor corporate Trustee. Any such appointment shall be accomplished by a writing signed and acknowledged by the party or parties making such appointment and delivered to the corporate Trustee being appointed.

At any time, and from time to time, a majority of the then living current Beneficiaries, excluding any contingent Beneficiaries, of this trust, may demand the resignation of the corporate Trustee then serving and appoint a successor corporate Trustee. Any such removal and appointment shall be accomplished by a writing signed and acknowledged by the party or parties making such demand and appointment and delivered to the corporate Trustee being removed and the successor corporate Trustee being appointed. Upon receipt of any such writing, the corporate Trustee being removed shall resign its trust and shall take all necessary and appropriate steps to transfer and turn over the trust estate to the successor corporate Trustee being appointed and any continuing Trustees as quickly as is prudent and practicable under the circumstances.

Any successor corporate Trustee appointed pursuant to this paragraph shall be at a trust company or bank having trust powers and trust assets under management of not less than Fifty Million Dollars (\$50,000,000), and any such successor corporate Trustee may have its place of business in any jurisdiction, it being my intent not to restrict the situs of any trust hereunder to any one state.

All Trustees serving herein may be referred to herein in the singular form and neuter gender.

ARTICLE THREE

Distributions

The Trustee shall hold, manage, invest, and reinvest all properties conveyed or otherwise transferred to the Trustee now or hereafter under this trust agreement, and shall collect and receive the income, and shall distribute such property as follows:

A. Distributions while any or all of the Beneficiaries are Living

The Trustee may from time to time distribute to or for the benefit of the Beneficiary, so much of the corpus and income of the trust as the Trustee shall determine, in her discretion, to provide for the health, welfare and support of the Beneficiary. The Trustee shall take into account all other means of income available to such Beneficiary when applying such discretion. Any income of the trust not so distributed shall be accumulated and added to the corpus of the trust. The Trustee may release, in whole or in part, her discretionary power to accumulate the income of the trust, whereupon the net income with respect to which such discretion has been released shall be distributed at least annually to the primary Beneficiary of the trust.

B. Upon the Death of the Beneficiary

Upon the death of the Beneficiary, this trust shall terminate and the property then remaining in this trust shall be distributed outright to JOHN DOE III, per stirpes.

C. Distribution to Remainder Beneficiaries under age 21

Any share distributable to an individual before having attained the age of 21 years shall immediately vest in such individual, but the Trustee shall retain possession and hold, IN TRUST, the share during the period the individual is under the age of 21 years and, in the meantime, the Trustee shall use and expend so much of the corpus and income as may be deemed necessary or desirable for the medical care, support, education, and general welfare of the individual, and any income not so expended shall be accumulated and added to the corpus of that share. The Trustee shall have with respect to each retained portion all of the powers and discretion had with respect to the trusts for the primary Beneficiaries.

D. Failure of Beneficiaries

If none of the Beneficiaries or Remainder Beneficiaries named or described above is then living, then the property remaining in this trust shall be distributed to or among the persons who would have been entitled thereto under the laws of descent and distribution of the jurisdiction of _____ if the Grantor had died.

E. Termination of Small Trust

If at any time after the Trustee is no longer living the total fair market value of the assets of any trust established or to be established under this Article is so small that the successor Trustee's annual fee for administering the trust would be the minimum annual fee set forth in the regularly published fee schedule then in effect, or if the non-Beneficiary Trustee shall determine that continuance of the trust would be uneconomical or impracticable, or otherwise would be adverse to the best interests of the Beneficiaries of the trust, the non-Beneficiary Trustee, in its sole and absolute discretion, shall be authorized to terminate such trust or to decide not to establish such trust; and, upon the occurrence of such event the property then held in or to be distributed to such trust shall be distributed to the persons who are then or would be entitled to the income and corpus of such trust. If the amount of income to be received by such persons is to be determined in the discretion of the Trustee, then the Trustee shall distribute the property among such of the persons to whom the Trustee is authorized to distribute income, and in such proportions, as the non-Beneficiary Trustee in its discretion shall determine.

ARTICLE FOUR

General Technical Provisions

A. Irrevocability of Trust

Grantor has been fully advised and understands and declares that this trust is and shall be irrevocable; that Grantor shall have no right to alter, amend, modify, revoke, or terminate this trust or any provisions of this trust agreement; and, that after the execution of this

trust agreement, Grantor shall have no right, title, interest, or incidents of ownership in, and no power or privilege to control or affect the trust property or the income therefrom.

B. Additions to Trust

The Grantor, as well as others shall have the right at any time to add to this trust by depositing additional money or property with the Trustee hereunder. All such money or property shall be held and distributed by the Trustee in all respects as if it had been a part of the property originally deposited hereunder.

C. No Investment of Small Cash Amounts Required

As long as the value of the cash assets of this trust (excluding any cash values of insurance policies) is less than Five Hundred Dollars (\$500), the Trustee is required to make no investments whatsoever of such assets; however, the Trustee may choose to deposit such assets in an interest bearing savings-type account.

D. No Reports on Small Trust Required

As long as the assets of this trust are limited to policies of insurance, plus other assets having a value of less than One Thousand Dollars (\$1,000), the Trustee shall be required to make no reports to any persons.

E. *This paragraph has been intentionally omitted.*

F. Spendthrift Provision

The income and support provided in this trust for the Beneficiary (or Beneficiaries as the case may be) thereof shall not be transferred, assigned, or conveyed and shall not be subject to the claims of any creditors of any Beneficiary; and the Trustee named herein shall continue to pay such income and support directly to or for the support of such Beneficiary notwithstanding any transfer, assignment, or conveyance, and notwithstanding any action by creditors. If, however, the Trustee is prevented by any transfer, assignment, or conveyance or by any proceeding brought by any creditor, or by any bankruptcy, receivership, or other proceeding, from paying such income or support directly to or for the benefit of any such Beneficiary, then and thereafter the Trustee shall hold and accumulate the income or support that would have been paid to or for the benefit of such Beneficiary until the Trustee is able to pay the same directly to or for the benefit of such Beneficiary or until the death of such Beneficiary, whichever shall first occur; and, on the death of such Beneficiary, any income or support so accumulated shall become a part of the principal of the trust estate and be disposed of as provided for the principal.

G. Provision to Avoid Violation of Rule Against Perpetuities

Anything in this trust to the contrary notwithstanding, and unless it is sooner vested under the provisions of this trust agreement, all property of every trust created by this trust agreement shall vest in and be distributed to the persons then entitled to the income from such property on the day before that date that is 90 years after the date of this trust, as shown on the first page of this trust agreement. The purpose of this provision is to prevent any possible violation of the rule against perpetuities (or comparable limitation), and this

provision shall be so construed. If the persons to receive the income from any property or the amount of such income to be received by each person is to be determined in the discretion of the Trustee, the Trustee shall distribute such property among such of the persons to whom the Trustee is authorized to distribute income, in such proportions as the Trustee shall determine in its discretion.

H. This paragraph has been intentionally omitted.

I. Disclaimer or Release of Power

The donee of any power created by or pursuant to this trust agreement and the Trustee of any trust hereunder may disclaim or release, in whole or in part, by instrument in writing delivered to the Trustee then serving and filed with the trust records, any power, including but not limited to, a power to establish or alter beneficial enjoyment of any property in any trust. If the disclaimer or release removes the discretion or power of all persons to establish or alter beneficial enjoyment of the income of any trust, the post-disclaimer or post-release income shall be paid to the then living Beneficiaries of the trust in equal shares.

ARTICLE FIVE

Technical Provisions Relating to Trustee

A. Allocation of Income and Principal

The Trustee shall determine what is income and what is principal of each trust created under this trust, and what expenses, costs, taxes, and charges of any kind whatsoever shall be charged against income and what shall be charged against principal in accordance with applicable statutes at that time.

B. Relations With Trustee

No one dealing with the Trustee need inquire concerning the validity of anything he or she purports to do, or need see to the application of any money paid or any property transferred to or on the order of the Trustee.

C. Limitation of Trustee's Liability

No Trustee appointed under this Trust Agreement shall at any time be held liable for any action or default of the Trustee or his or her agent or of any other person in connection with the administration of the trust estate, unless caused by the Trustee's own gross negligence or by a willful commission by him or her of an act in breach of trust.

D. Compensation

A Trustee, other than the Grantor serving as Trustee, shall be entitled to reasonable compensation for services rendered.

E. Bond

No bond shall be required of the original Trustee hereunder or of any successor Trustees.

F. Rights and Powers of Successor Trustee

Any successor Trustee appointed as provided in Article 2 of this Agreement because of the death, resignation, or other act of the Trustee, shall, on appointment, immediately succeed to all title of the Trustee to the Trust Estate and to all powers, rights, discretions, obligations, and immunities of the Trustee under this Agreement with the same effect as though the successor Trustee were originally named as Trustee in this Agreement.

ARTICLE SIX

Grantor's Goals in Establishing This Trust

There are several purposes that have motivated Grantor to establish this trust and it is Grantor's hope that such purposes will be considered by all who must carry out the terms hereof. [Continue list as desired]

ARTICLE SEVEN

Prohibited Administrative Powers

Anything herein to the contrary notwithstanding, no powers enumerated herein or accorded to any Trustee generally pursuant to law shall be construed to enable Grantor, or the Trustee, or any other person: (i) to purchase, exchange, or otherwise deal with or dispose of the principal or income of the trust estate for less than an adequate and full consideration in money or money's worth; (ii) to lend the trust income or principal, directly or indirectly, without adequate interest or without adequate security; (iii) to purchase policies of insurance on the life of any Grantor or to pay any premiums thereon; or (iv) to deal with the trust estate in any manner which contravenes sections 675-677 of the Internal Revenue Code of 1986, as amended, and successor provisions. The power to vote or direct the vote of any stock or other securities in the trust, or to control the investments of the trust either by directing investments or reinvestments or by vetoing investments or reinvestments, or by any other means, or to acquire or exchange any property of the trust by substituting other property there for, shall be held and exercised only by the Trustee. Anything herein to the contrary notwithstanding, no part of the principal or income of the trust shall be used to satisfy or discharge any personal legal obligations of the Grantor, including the support or maintenance of a Beneficiary whom the Grantor or is legally obligated to support; and no person serving as a fiduciary herein shall use any power granted herein to relieve such person of his or her personal legal obligations to support a Beneficiary of this trust.

ARTICLE EIGHT

General Authority of Trustees and Powers by Reference

In the management, care, and disposition of the trust, the Grantor confers upon all Trustees

serving under this Agreement, and their successors in office, the power to do all things and to execute such instruments as may be deemed necessary or proper, not otherwise expressly prohibited herein, and all of which may be exercised without order of or report to any court.

In addition to all other powers granted by law, Trustee shall have the following powers and discretion:

A. Retain Assets

The Trustee is authorized to retain in the Trust any property received by the Trustee from the Grantor and to operate at the risk of the Trust Estate any business or property received by the Trustee from the Grantor as long as the Trustee considers advisable, provided the Trustee, in exercising reasonable prudence, discretion, and intelligence, considers that the retention is in the best interests of the trust.

B. Investments

To invest and reinvest in every kind of property, real, personal, or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, and stocks, preferred or common, which men or women of prudence, discretion, and intelligence acquire for their own accounts, without regard to any principle of diversification and without being confined to legal investments.

C. Management of Securities

To exercise, respecting securities held in the trust estate, the power to vote, give proxies, and pay assessments and other sums deemed by the Trustee necessary for the protection of the trust estate; to participate in any plans or proceedings for the foreclosure, reorganization, consolidation, merger, or liquidation of any corporation or organization that has issued securities that are part of the Trust Estate, and incident to such participation deposit securities with and transfer title of securities to any protective or other committee established to further or defeat any such plan or proceeding; to exercise or sell stock subscription or conversion rights; to accept and retain as an investment any securities or other property received through the exercise of any of the foregoing powers, regardless of any limitations elsewhere in this instrument relative to investments by the Trustee.

D. Form of Ownership of Trust Property

To hold securities or other trust property in the name of the Trustee as Trustee under this Trust Agreement or in the Trustee's own name or in the name of a nominee or in such conditions where ownership will pass by delivery.

E. Sell and Exchange

To sell for cash or on deferred payments and on such terms and conditions as are deemed appropriate by the Trustee, whether at public or private sale, to exchange, and to convey any property of the trust estate.

F. Option

To grant an option involving disposition of a trust asset and to take an option for the acquisition of any asset by the trust estate.

G. Lease

To lease any real or personal property of the trust estate for any purpose for terms within or extending beyond the duration of the trust.

H. Property Management

To manage, control, improve, and repair real and personal property belonging to the trust estate.

I. Development of Property

To partition, divide, subdivide, assign, develop, and improve any trust property; to make or obtain the vacancy of plats and adjust boundaries or to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land or easements to public use with or without consideration.

J. Repair, Alter, Demolish, and Erect

To make ordinary and extraordinary repairs and alterations in buildings or other trust property, to demolish any improvements, to raze party walls or buildings, and to erect new party walls or buildings as the Trustee deems advisable.

K. Borrowing and Encumbering

To borrow money for any trust purpose from any person, firm, or corporation, on the terms and conditions deemed appropriate by the Trustee, and to obligate the trust estate for repayment; to encumber the trust estate or any of its property by mortgage, deed of trust, pledge, or otherwise, using whatever procedures to consummate the transaction deemed advisable by the Trustee; and to replace, renew, and extend any encumbrance, and to pay loans or other obligations of the trust estate deemed advisable by the Trustee.

L. Natural Resources

To enter into oil, gas, liquid or gaseous hydrocarbon, sulfur, metal, and any and all other natural resource leases on terms deemed advisable by the Trustee, and to enter into any pooling, unitization, repressurization, community, and other types of agreements relating to the exploration, development, operation, and conservation of properties containing minerals or other natural resources; to drill, mine, and otherwise operate for the development of oil, gas, and other minerals; to contract for the installation and operation of absorption and repressuring plants; and to install and maintain pipelines.

M. Insurance

(n) To procure and carry, at the expense of the trust estate, insurance of the kinds, forms, and amounts deemed advisable by the Trustee to protect the trust estate and the Trustee against any hazard.

N. Enforcement of Hypothecations

To enforce any deed of trust, mortgage, or pledge held by the trust estate, and to purchase at any sale thereunder any property subject to any such hypothecation.

O. Extending Time of Payment of Obligations

To extend the time of payment of any note or other obligation held in the trust estate, including accrued or future interests, in the discretion of the Trustee.

P. Adjustment of Claim

To compromise, submit to arbitration, release with or without consideration, or otherwise adjust claims in favor of or against the trust estate.

Q. Litigation

To commence or defend at the expense of the trust estate any litigation affecting the trust or any property of the trust estate deemed advisable by the Trustee.

R. Administration Expenses, Payment of Taxes, and Reimbursement of Income Taxes Attributed to and Paid by Grantor

To pay all taxes, assessments, compensation of the Trustee, and all other expenses incurred in the collection, care, administration, and protection of the trust estate. Also, in the event that upon the reorganization of a taxable gain or distribution that such income tax is attributed to and paid by the Grantor, then the Trustee shall reimburse Grantor to the extent of such taxes.

S. Employment of Attorneys, Advisors, and Other Agents

To employ any attorney, investment advisor, accountant, broker, tax specialist, or any other agent deemed necessary in the discretion of the Trustee; and to pay from the trust estate reasonable compensation for all services performed by any of them.

T. Limitation on Powers

All powers given to the Trustee by this Trust Agreement are exercisable by the Trustee only in a fiduciary capacity. No power given to the Trustee hereunder shall be construed to enable the Grantor or any other person to purchase, exchange, or otherwise deal with or dispose of the principal or income therefrom for less than an adequate consideration in money or money's worth; to permit the Grantor or any other contributor to the trust to borrow income or principal; or to authorize loans to the Grantor, or any other contributor to the trust except on the basis of an adequate interest charge and with adequate security. The Trustee shall not use the income or principal of the trust to pay premiums on insurance on the life of the Grantor. No person, other than the Trustee, shall have or exercise the power to vote or direct the voting of any corporate shares or other securities of this trust, to control the investment of this trust either by directing investments or reinvestments or by vetoing proposed investments or reinvestments, or to reacquire or exchange any property of this trust by substituting other property of equivalent value.

THE SAMPLE TRUST DATED JANUARY 1, 2000, consisting of ____ (##) typewritten pages, is signed, sealed, and delivered, this 1st day of January, 2000.

GRANTOR:

JOHN DOE

Signed, sealed, and delivered, and sworn to and subscribed as to the Grantor and Trustee in the presence of:

_____ residing at _____
Unofficial Witness

On this 1st day of January, 2000, before me, the undersigned, personally appeared JOHN DOE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual executed the instrument.

Notary Public
Commission Expires _____

TRUSTEE:

JANE DOE

APPROVED AS TO FORM BY:
Law Office of _____.

By: _____, Esq.

In token of the acceptance of this trust and acknowledging receipt of the original corpus of Ten Dollars (\$10.00) described above JANE DOE has hereunto set her hand and affixed her seal, this 8th day of June, 2011.

JANE DOE, Trustee

APPENDIX 2 – SAMPLE OPERATING AGREEMENT

Here is a sample Operating Agreement in template form. You need to provide all missing information as it pertains to your specific business. When you are completing your Operating Agreement please bear in mind the following points:

- This Operating Agreement is merely a sample. We highly recommend that you adjust it to fit your business's format and conditions. Furthermore, depending on your business model and the requirements placed on your Members you may decide to remove certain sections of this Operating Agreement.
- This Operating Agreement is written for a "Member Managed LLC." This means that one or more of the Members are going to be managing the day to day activities of the company. In such a case, special attention must be given to the tax consequences in regard to the remuneration allowance for the Managers.
- If you decide to have an outside person(s) manage the Company, ("Manager Managed LLC"), then you need to adjust his/her level of authority and responsibilities in the Operating Agreement. Furthermore you may desire, and we do recommend, the Manager(s) sign a separate non-disclosure and non-compete contract as well.
- It is important that the company clearly explain to the Manager(s) that Managers are solely responsible for their own taxes.
- We highly recommend that when you are hiring a Manager that you enter into an employment agreement with him/her and include all the Manager's duties, authorities, responsibilities, and all other employment terms and conditions.

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OPERATING AGREEMENT
OF

A
MEMBER MANAGED LLC

THIS Agreement is made and entered into this ____ day of _____, 20____ by and between each Member whose signatures appear on the signature page of this Operating Agreement (the "Initial Members"). In consideration of the mutual covenants and for other good and consideration, the Initial Members and any other entities, real or legal, who subsequently becomes a member hereby, agree as follows:

ARTICLE 1. FORMATION OF COMPANY

1.1 Formation.

On _____, 20____ the registered agent formed this limited liability company ("Company") and delivered the articles of organization to the Secretary of State. The Company and its Members, Equity Holders and Managers hereby indemnify and hold harmless the registered agent against any liability and shall reimburse the registered agent for any expenses that he/she may have incurred.

1.2 Name.

The name of the Company is _____ (herein also referred to as "Company").

1.3 Place of Business.

The place of business of the Company shall be
_____.

1.4 Address.

The Company may relocate its Place of Business and registered office at any time.

1.5 Term.

The Company shall remain in existence unless it's terminated by its managers and based upon the terms and conditions set forth in this Operating Agreement.

ARTICLE 2. BUSINESS OF COMPANY

2.1 Permitted Business.

The business of the Company shall be:

- (a) To _____
- (b) To engage in any and all lawful business activity.
- (c) To engage in all activities that may be related to the foregoing.

ARTICLE 3.
NAMES AND ADDRESSES OF INITIAL MEMBERS

The names and addresses of the Initial Members are as follows:

NAME:

ADDRESS:

NAME:

ADDRESS:

NAME:

ADDRESS:

ARTICLE 4.
DUTIES AND RESPONSIBILITIES OF MANAGERS

4.1 Management.

This is a Manager Managed Company. Members hereby approve any and all managers' decisions and actions subject to the terms and conditions outlined in this Operating Agreement. However, managers may not change any part of this Operating Agreement without prior written consent of 65% of the Members.

4.2 Number and Term of Managers.

At all-times the Company shall have at least ____Managers. The Members may change the number of number of Managers by the 65% vote of Members. **Section 4.9** and **4.10** outlines the terms and conditions upon which a manager may resign or be replaced. Selections of Managers must be by 65% majority vote of Members.

4.3 Authority of Managers.

The Managers authorities and limitations are regulated by **Section 4.1** and **Section 4.4**. The Managers' authority includes:

(a) To buy and sell property, real or personal, from any entity, real or legal. This authority is broadly defined;

(b) To establish line of credit, short or long term, for the Company from any financial institutions. Manager ability to secure fund for the company is not limited to barrowing from financial institution;

(c) Managers may create liability for the Company;

(d) Managers may obtain any type of insurance for the Company in order to protect the Company;

(e) Managers may invest the Company's fund;

(f) Managers may enter to any financial transaction on behalf of the Company and for doing so to execute any documents necessary to achieve his/her goal;

(g) Managers may hire specialists and experts such as financial experts, attorneys, IT experts and accountants for the Company as needed for its operation and success;

(h) Managers may enter into any contract on behalf of the Company as he/she deems necessary;

(i) Managers may file, on behalf of the Company, any documents needed to any municipal or federal authorities as needed.

(j) Managers may upon 65% approval of the Members reorganize the Company; and

(k) Managers may undertake any activities that are needed for success of the Company.

4.4 Limitations of Managers.

The following activities and functions by Managers require 65% majority vote of Members:

(a) Any sale of the Company assets that may be considered all or most of the Company's assets.

(b) To encumber the Company for more than US\$_____;

(c) Section 4(b), if it is done in separate transactions, should not, in total exceed US\$_____;

____; (d) No single purchase or expenditure should exceed US\$

(e) To make any loan to any entity, real or legal;

(f) To settle any legal dispute; or

(g) To take the Company into bankruptcy.

4.5 Miscellaneous.

(a) Managers may not, directly or indirectly, promise any return on equity to the Members.

(b) The Managers may not be liable for the Company's losses, unless due to his/hers gross negligence and/or fraud.

4.6 Non Compete Duty.

The Manager(s) shall enter into a "NON COMPETE" agreement with the Company, at the time he/she accepts the managerial position with the Company. However, Managers are free to work with other non rival entities.

4.7 Fiduciary Duty.

The Managers have fiduciary duty to protect the Company assets and interests.

4.8 Legal Defense for Managers and Employees.

(a) The Company shall fully indemnify its Managers and employees. However, Company shall hold Managers liable under **Section 4.5(b)**.

(b) The Company shall reimburse all expenses incurred by Managers and/or employees during their respective defenses.

4.9 Resignation.

Any of the Managers may resign at any time with or without cause. However, if the resignation is without cause, the resigning Managers should give _____ days' notice.

4.10 Dismissal.

Any Manager may be dismissed with 65% majority vote of the Members.

4.11 Replacement.

Members may select a new Manager to replace the dismissed manger with 65% majority vote of the Members.

4.12 Remuneration.

- (a) Members will decide the remuneration of the Managers.
- (b) Managers shall be reimbursed for all their preapproved expenses.
- (c) Company shall reimburse the Managers for all pre-organizational expenses.

4.13 Reliance.

- (a) Entities, real or legal, may rely on Managers in dealing with Company as to:
 - (1) The Managers' identity;
 - (2) Material distributed about Company;
 - (3) Identity of other Company representatives; or
 - (4) Behavior of the Company as a whole.

ARTICLE 5.
AUTHORITY AND RESPONSIBILITIES OF MEMBERS

5.1 Limitation of Liability.

No Members shall be liable for the Company's obligations unless otherwise provided by the law.

5.2 Company information.

Managers may, upon written request, provide any and all Company information to the Members.

5.3 Members' relationship to the Company.

Members are not considered Agents of the Company.

5.4 Accounts and Books.

Managers may, upon written request, provide a copy of all Company's books to the Members. Requesting Members shall bear the cost of such request.

5.5 Dividend priorities.

All Members shall be treated equally upon distribution of dividend, subject to provision of Article 9.

ARTICLE 6. MEETING

6.1 No Required Meetings.

The Members may but shall not be required to hold any annual, periodic or other formal meetings.

6.2 Place of Meetings.

The Members may decide on place of meeting at any time.

6.3 Notice of meetings.

No formal notice is required, as long as Managers try to reach all members, in writing or by phone.

ARTICLE 7. SALE AND TRANSFER OF OWNERSHIP

7.1 General.

(a) Subject to terms and conditions set forth herein, membership in this Company may freely be sold or transferred.

(b) Members hereby acknowledge that terms and conditions set forth here in regard to sale and or transfer of their membership is reasonable.

(c) Members are not allowed use their membership interest as collateral or in any way encumber such membership interest.

7.2 Conditions of sale of membership interest.

(a) A Member who wishes to sell, in part or in whole, his/her membership interest must first inform, in writing, other Members of his/her intention to sell his/her membership interest. If any of the Members ("Purchasing Member") express interest to purchase the subject membership interest, the selling Member then must provide the Purchasing Member with a written bona fide offer from a third party potential purchaser. If the Purchasing Member meets or exceeds the price offered, in kind, by the third party, then the selling Member must accept the Purchasing Member's offer. If there is a dispute as to either validity of the offer made by the third party purchaser or if the value offered by the potential third party purchaser cannot be matched, in kind, by Purchasing Member, then 65% majority of the non-selling Members will rule on this issue.

(b) If the membership interest offered by selling Member exceeds the amount of membership interest offered by the Purchasing Member, the difference can be readily sold to the third party.

7.3 Rights of the new Members.

(a) The new owner of the membership interest must sign a copy of this Operating Agreement.

(b) The new owner of the membership interest is not automatically entitled to all rights and privileges of the Initial Members, unless 65% majority vote of the remaining Initial Members bestow such rights and privileges upon the new Member. If a Member sells all his/her membership interest, he/she shall not have any rights or privileges in the Company.

ARTICLE 8.
INCREASE IN MEMBERSHIP INTERESTS
AND ACCEPTANCE OF NEW MEMBER

8.1 Adding new Member.

At any time, the 65% majority of the Members may decide to add a new Member to the Company. The new Member will have all the rights and privileges of the Initial Members. Such new Member will be required to sign a copy of this Operating Agreement and thus shall be subject to all the terms and conditions stated herein.

8.2 Increase in Membership Interest.

At any time the 65% majority of the Members may decide to increase all Members' membership interest. However, such increase must be proportional to the original percentage of each Member's membership Interest.

ARTICLE 9.
TERMINATION

9.1 Termination.

(a) The Company may be terminated either by the operation of the law or by the decision of 100% of the Members.

(b) If the Company is terminated, the Managers are required to file any and all documents necessary for termination of the Company with the Secretary of the States.

9.2 Winding up.

When the company is terminated, all Company's routine operations cease to function and Managers must complete the distribution of the Company's assets.

9.3 Post Termination Functions of Managers.

(a) Retain appropriate accountant to reconcile all accounts.

(b) Arrange for sale or liquidation of the Company's assets.

(c) Arrange for paying off all indebtedness of the Company, if any.

(d) Finalize the profit and loss of the Company.

(e) Distribute the remaining fund or unsold assets.

(f) Once the Company is liquidated, Members shall have no obligation to make any payment to the Company, in form of capital or loan. Furthermore, if, after liquidation, any Member has a negative Capital Account balance, such shortage shall not be considered indebtedness of such member. Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(g) The Managers shall comply with any applicable requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

9.4 Final filing.

Arrange with the accountant for filing of the last tax papers.

9.5 Conclusion.

Members agree that this settlement is final and there is no recourse to Managers.

ARTICLE 10. MISCELLANEOUS PROVISIONS

10.1 Notices.

All notices may be given by email, facsimile, US mail or private carriers.

10.2 Company Books.

Managers are required to maintain a complete book and records of the Company. Any member may request, in writing, from Managers to see a part or the entire

record of the Company. Managers are required to comply with such request and charge the requesting Member with any cost incurred.

10.3 Governing law.

This Agreement is subject to the laws of the State of _____

10.4 Values of votes.

The value of the votes are by percentage of the Membership Interest owned by a given Member.

10.5 Addition and Deletion.

Any change in this Agreement requires ____ % vote of Initial Members.

10.6 Acquiescence of Members.

Members hereby acquiescent to sign any documents that may be needed to comply with the relevant laws and regulations.

10.7 Construction.

In this Agreement words such Member or Manager, may be used singular or plural, with the same meaning.

10.8 Effect of inconsistencies with laws and regulations.

If there is a section of this Agreement that may be in conflict with the laws and regulation, only such section may be removed. All other sections of this Agreement shall remain in full force and effect.

10.9 Acknowledgement.

All members hereby acknowledge that they have read this Agreement and have consulted with their attorneys and fully understand the entire Agreement.

10.10 Remedies.

The remedies outlined in this Agreement are cumulative.

10.11 Post termination rights.

In general, no Member shall have any right or claim against the Company and/or its officers, after the Company has been terminated according to Section 9.

10.12 Heirs, Successors and Assigns.

All terms and conditions of this Agreement shall be binding upon the Members' heirs, and or legal representatives.

10.13 Creditors.

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

10.14 Counterparts.

This Agreement may be executed in as many copies as necessary and they all will be considered original for the purpose of this Agreement.

10.15 Rule Against Perpetuities.

Members agree to disregard the Rule Against Perpetuity and such rule will not be applicable to the terms and conditions of this Agreement.

10.16 Assignment of power.

All Members hereby approve any and all actions of the Managers, as long as they act with the stated power in this Agreement.

10.17 Investment Representations.

The undersigned Equity Owners, if any, understand (1) that the Ownership Interests evidenced by this Agreement have not been registered under the Securities Act of 1933, the State Securities Act or any other state securities laws (the "Securities Acts") because the Company is issuing these Ownership Interests in reliance upon the exemptions from the registration requirements of the Securities Acts providing for issuance of securities not involving a public offering, (2) that the Company has relied upon the fact that the Ownership Interests are to be held by each Equity Owner for investment, and (3) that exemption from registrations under the Securities Acts would not be available if the Ownership Interests were acquired by an Equity Owner with a view to Distribution.

Each Equity Owner, prior to acquiring an Ownership Interest, has made an investigation of the Company and its business, and the Company has made available to each Equity Owner, all information with respect to the Company which such Equity Owner needs to make an informed decision to acquire the Ownership Interest. Each Equity Owner considers himself, herself or itself to be a person possessing experience and sophistication as an investor which are adequate for the evaluation of the merits and risks of such Equity Owner's investment in the Ownership Interest.

10.18 Members' Representations.

All Members hereby promise and covenant that any and all their representation in regard to this Agreement are true and factual. Furthermore, such representations survive the execution of this Agreement.

10.19 Taxes.

Although profit and losses of the Company flow through individual Member's taxable income, assuming proper elections have been made, each Member shall be responsible for his/her own taxes.

CERTIFICATE

The undersigned Initial Members of the Company hereby acknowledge and certify that this Agreement, consisting of __ pages constitutes the Operating Agreement of _____ LLC as agreed by Initial Members and subsequent new members as of_____.

_____ **LLC**

By: _____

Its: Manager

Date:

By: _____

Date:

Member

By: _____

Date:

Member

EXHIBIT A

INITIAL CAPITAL CONTRIBUTIONS, MEMBERSHIP INTEREST AND SHARING RATIO

<u>Names of Initial Members</u>	<u>Membership Interest</u>	<u>Sharing Ratio</u>	<u>Initial Capital Contribution</u>
_____	-	%__	US\$__
_____	-	% __	US\$__
_____	-	%__	US\$__