

**OPERATING AGREEMENT**

**OF**

**FEATHERED ELK RANCH, LLC**

## **TABLE OF CONTENTS**

1.	Name .....	1
2.	Definitions.....	1
2.1	Capital Account .....	1
2.2	Capital Contributions .....	1
2.3	Capital Transaction .....	1
2.4	Code .....	2
2.5	Company .....	2
2.6	Depreciation.....	2
2.7	Dissolution Event.....	2
2.8	Economic Interest .....	2
2.9	Economic Interest Holder .....	2
2.10	Gross Asset Value.....	2
2.11	Involuntary Withdrawal .....	2
2.12	Law .....	3
2.13	Liquidation Proceeds .....	3
2.14	Managers.....	3
2.15	Member .....	3
2.16	Net Capital Contribution.....	3
2.17	Net Cash From Operations.....	3
2.18	Net Losses .....	3
2.19	Net Profits .....	3
2.20	Taxing Jurisdiction.....	3
2.21	Treasury Regulations .....	4
2.22	Taxable Year .....	4
2.23	Unit .....	4
3.	Business; Place of Business .....	4
3.1	Permitted Activities .....	4
3.2	Principal Place of Business .....	4
4.	Registered Office; Registered Agent .....	4
5.	Members .....	4
5.1	Membership Rights.....	4
5.2	Holder of Record.....	4
5.3	Names and Addresses .....	4
5.4	Meetings of Members; Voting.....	5
6.	Duration of the Company.....	5
7.	Capital .....	5
8.	Capital Accounts; Interest on Capital; Return of Capital; Restoration of Negative Capital Accounts .....	5
8.1	Capital Accounts.....	5
8.2	Transfer of Capital Account.....	6
8.3	Determination of Capital Account .....	6
8.4	Compliance with Treasury Regulations .....	6
8.5	Interest on Capital .....	6

8.6	Return of Capital.....	6
8.7	Additional Capital Contributions.....	6
8.8	Loans.....	6
8.9	Restoration of Negative Capital Accounts.....	7
8.10	Certain Capital Account Adjustments .....	7
9.	Allocation of Net Profits and Net Losses; Allocation of Gain or Loss on Sale or Liquidation; Taxes .....	8
9.1	Allocation of Net Profits and Net Losses .....	8
9.2	Gains and Losses.....	8
9.3	Property.....	8
9.4	Limitations on Allocations.....	8
9.5	Distributive Shares of Members .....	8
9.6	Tax Elections .....	9
9.7	Income Taxes .....	9
10.	Cash Distributions.....	9
11.	Management.....	9
11.1	Management Authority .....	9
11.2	Board of Managers.....	9
11.3	Resignation or Removal of Managers.....	11
11.4	Term of Managers.....	11
11.5	Other Activities of Managers; Non-competition .....	11
11.6	Conflicts of Interest.....	12
11.7	Compensation of Managers .....	12
11.8	Liability of Managers.....	12
11.9	Indemnification of Managers .....	12
11.10	Loans between the Company and Members .....	12
11.11	Payment of Company Debt by Member .....	12
11.12	Tax Matters Partner.....	13
11.13	Taxation of Company .....	13
11.14	Action by and Meetings of the Board of Managers.....	13
12	Use of Agents and Independent Contractors .....	13
13.	Payment for Services Rendered .....	13
14.	Fiscal Year .....	14
15.	Books and Records .....	14
16.	Bank Accounts .....	14
17.	Transferability of Units; Withdrawal.....	14
17.1	Transfer of Units .....	14
17.2	Permitted Transfers.....	14
17.3	Transfer of Units Held by a Custodian, Guardian or Trustee .....	15
17.4	Voluntary Withdrawal .....	15
17.5	Involuntary Withdrawal .....	15
17.6	Reasonableness of Provisions Regarding Transfer.....	15
18.	Dissolution; Distribution on Dissolution; Winding-Up.....	15
18.1	Dissolution Events .....	15
18.2	Involuntary Withdrawal of Member .....	15
18.3	Distribution on Dissolution.....	16

18.4	Distribution of Liquidation Proceeds.....	<b>Error! Bookmark not defined.</b>
18.5	Termination of Company .....	16
18.6	Deficit Capital Account .....	16
18.7	Return of Capital.....	16
19.	Amendment of Operating Agreement.....	16
20.	Additional Members .....	17
20.1	Admission of Additional Members Other than Transferees .....	17
20.2	Authorized Units.....	17
21.	Adjustment of Basis Election.....	17
22.	Miscellaneous .....	17
22.1	Binding Effect.....	17
22.2	Headings .....	17
22.3	Governing Law .....	17
22.4	Notice.....	17
22.5	Construction.....	19
22.6	Severability .....	19
22.7	Incorporation By Reference.....	19
22.8	Cooperation of Members .....	19
22.9	Variation of Pronouns .....	19
22.10	Counterparts.....	19

## SCHEDULES

Schedule A	<u>Membership and Units</u>
Schedule B	<u>Managers</u>

**OPERATING AGREEMENT  
OF  
FEATHERED ELK RANCH, LLC**

This Operating Agreement (the "Operating Agreement") of Feathered Elk Ranch, LLC is entered into as of the \_\_\_\_ day of March 2021, by the undersigned parties.

**PRELIMINARY STATEMENT**

The undersigned parties have agreed among themselves to join together for the conduct of Feathered Elk Ranch, LLC, a Colorado limited liability company, which engages in the operation and conduct of business as hereinafter described.

As referenced in Section 17 and Section 20 of this Operating Agreement, it is agreed that no other Members will be admitted to the Company, unless such admittance is agreed upon by the undersigned parties.

NOW, THEREFORE, in consideration of the Preliminary Statement and the mutual covenants contained herein, the parties hereto agree as follows:

1.     Name. The name of the Company shall be Feathered Elk Ranch, LLC.

2.     Definitions.

2.1         "Capital Account" shall mean the capital account of each Member maintained and determined pursuant to Section 8.

2.2         "Capital Contributions" shall mean the total amount of cash and the fair market value of property contributed by each Member to the Company pursuant to the terms of this Operating Agreement.

2.3         "Capital Transaction" shall mean the occurrence of any of the following events, to the extent that any such event is attributable to capital in accordance with generally accepted accounting principles: (i) a sale or other disposition of all or substantially all of the Company property; (ii) a sale or other disposition of less than all or substantially all of the Company property other than in the ordinary course of business; (iii) a mortgage or mortgage refinancing covering, in whole or in part, the Company property; (iv) condemnation of the Company property, in whole or in part; or (v) the receipt by the Company of proceeds realized from title or fire and extended coverage insurance covering the Company property, to the extent that such proceeds exceed the amounts expended for repairing or restoring the Company property with respect to which the proceeds are received and any fees or expenses incurred in connection with the adjustment of

such loss or in connection with such repair or restoration.

2.4 "Code" shall mean the Internal Revenue Code of 1986, as amended (or any corresponding provision or provisions of succeeding law).

2.5 "Company" shall mean Feathered Elk Ranch, LLC.

2.6 "Depreciation" shall mean, for each Taxable Year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to any Company asset for such Taxable Year or other period.

2.7 "Dissolution Event" shall mean an event described in Section 18.1 of this Operating Agreement.

2.8 "Economic Interest" shall mean the right attributable to any Unit to receive cash distributions and a share of Capital Contributions, profit and loss allocations, other allocations of income, deduction, credit and gain, proceeds of Capital Transactions, and Liquidation Proceeds from the Company. Economic Interest does not include the right to participate in the management or affairs of the Company or any other right, including the right to vote on, consent to or otherwise participate in any decision of the Board of Managers or the Members.

2.9 "Economic Interest Holder" shall mean the holder of an Economic Interest who may or may not be a Member.

2.10 "Gross Asset Value" shall mean, with respect to any asset, the asset's adjusted basis for federal income tax purposes; provided, however, that the initial Gross Asset Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset (unreduced by liabilities secured by such asset), as determined by the contributing Member and the Company, and provided further that the Gross Asset Value of any asset adjusted pursuant to Section 8.10 of this Operating Agreement shall be its fair market value or such amount otherwise determined pursuant to Section 8.10.

2.11 "Involuntary Withdrawal" shall mean, with respect to any Member (i) if the Member is an individual, the Member's death or adjudication by a court of competent jurisdiction as incompetent to manage the Member's person or property, (ii) if the Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust, (iii) if the Member is a partnership or limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company, (iv) if the Member is a corporation, the dissolution of the corporation or the revocation of its certificate of incorporation, or (v) if the Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company.

2.12 "Law" shall mean the Colorado Limited Liability Company Act.

2.13 "Liquidation Proceeds" shall mean the Company's net assets after satisfaction of its liabilities and expenses, including but not limited to legal, accounting and/or appraisal fees incurred in connection with the calculation, allocation and distribution of such net assets.

2.14 "Managers" shall mean Thomas C. Miller and Robert C. Miller. The Managers shall be delegated the direction and control of the management of the Company's business as provided in Section 11 of this Operating Agreement.

2.15 "Member" shall mean Jigsaw Adventure Companies, LLC, or a person who has been admitted to the Company pursuant to Section 17 or Section 20 of this Operating Agreement. For purposes of this Operating Agreement, Member shall also refer to an Economic Interest Holder who has not been admitted to the Company, as the context requires.

2.16 "Net Capital Contribution" shall mean, with respect to each Member, at any specific point in time, the aggregate of Capital Contributions actually made by such Member to the Company, less any distributions made pursuant to Section 10 of this Operating Agreement.

2.17. "Net Cash From Operations" shall mean the gross cash proceeds from Company operations (other than from Capital Transactions) less the portion thereof used to pay or establish reserves for all Company expenses, debt payments, capital contributions and loans to subsidiaries, capital improvements, replacements and contingencies, all as reasonably determined by the Board of Managers.

2.18 "Net Losses" shall mean the losses and deductions of the Company determined in accordance with accounting principles consistently applied from year to year employed under the cash method of accounting adopted by the Company and as reported separately or in the aggregate, as appropriate, on the tax return of the Company for federal income tax purposes.

2.19 "Net Profits" shall mean the income and gains of the Company determined in accordance with accounting principles consistently applied from year to year employed under the cash method of accounting adopted by the Company and as reported separately or in the aggregate, as appropriate, on the tax return of the Company for federal income tax purposes.

2.20 "Taxing Jurisdiction" shall mean any state, local, or foreign government that collects tax, interest, or penalties, however designated, on any Member's share of the income or gain attributable to the Company.



2.21 "Treasury Regulations" shall mean the Treasury Regulations promulgated pursuant to the Code, or any corresponding provisions of succeeding Treasury Regulations.

2.22 "Taxable Year" shall mean an annual accounting period ending December 31 of each year during the term of the Company or any portion of such period for which the Company is required to allocate Net Profits and Net Losses and other items of Company income, gain, loss or deduction pursuant to Section 9 of this Operating Agreement.

2.23 "Unit" shall mean a discrete interest in the Company, including an Economic Interest, obligations to the Company and other Members as set forth in this Operating Agreement, and the right to participate in the management and affairs of the Company, including the right to vote on, consent to or otherwise participate in any decision of or action by the Members granted pursuant to this Operating Agreement. For purposes of this Operating Agreement, Unit shall also refer to the Economic Interest of an Economic Interest Holder, as context requires.

3. Business; Place of Business.

3.1 Permitted Activities. The Company is organized to carry on any lawful business, purpose or activity. To these ends, the Company may enter into, make and perform all contracts and other undertakings and engage in all activities and transactions, as the Board of Managers may consider necessary or advisable to carry out the foregoing objects and purposes.

3.2 Principal Place of Business. The principal place of business of the Company shall be determined by the Board of Managers, acting from time to time.

4. Registered Office; Registered Agent. The registered office of the Company is 508 Smith Street, Fort Collins, CO 80524. The registered agent for the Company in the State of Colorado is Thomas Miller, 508 Smith Street, Fort Collins, CO 80524. The Board of Managers shall have the right to designate any office within the State of Colorado as the Company's registered office, upon compliance with the Law.

5. Members.

5.1 Membership Rights. The holders of outstanding Units shall be entitled to exercise all of the rights conferred upon them under this Operating Agreement.

5.2 Holder of Record. The Company shall be entitled to treat the holder of record of any Unit of the Company as the holder and owner in fact thereof for all purposes and shall not be bound to recognize any equitable or other claim to or interest in such Unit on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by law.

5.3 Names and Addresses. The names and addresses of the Members as of the

date hereof are set forth on Schedule A attached. A Member may change such address by written notice to the Company from time to time.

5.4 Meetings of Members; Voting.

(a) There shall be no requirement of an annual meeting of the Members.

(b) Meetings of the Members shall be held at the discretion of the Members or when required by this Operating Agreement. Any Member that is also a Manager may call a meeting of the Members upon ten (10) days notice to the other Members. Notice may be delivered personally or by mail, electronic mail or facsimile transmission.

(c) In connection with any matter upon which a vote of the Members is taken pursuant to the Law or this Operating Agreement, a majority of the Members shall affirmatively agree on the matter and such agreement shall be the act of the Members. Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting if all the Members consent thereto in writing.

6. Duration of the Company. The Company shall continue to exist until the Company is dissolved and its affairs wound up in accordance with the terms and provisions of this Operating Agreement or the Law.

7. Capital. The respective Capital Contributions, if any, made by, and the respective Units held by, each Member as of the date hereof are set forth on Schedule A attached.

8. Capital Accounts; Interest on Capital; Return of Capital; Restoration of Negative Capital Accounts.

8.1 Capital Accounts. The Board of Managers shall establish and maintain on the Company's books a separate Capital Account for each Member in accordance with federal income tax accounting principles and the applicable rules under Code Section 704(b) and Treasury Regulations Section 1.704-1(b)(2)(iv), as amended from time to time. Each Member's Capital Account shall be increased by (i) the amount of any money actually contributed by the Member to the capital of the Company, (ii) the fair market value of any property contributed by the Member to the Company, as determined by the Company and the contributing Member at arm's length, net of any liabilities assumed by the Company or subject to which the Company takes such property within the meaning of Code Section 752, and (iii) the Member's share of Net Profits and of any separately allocated items of income and gain (including income exempt from tax). Each Member's Capital Account shall be decreased by (i) the amount of any money distributed to the Member by the Company, (ii) the fair market value of any property distributed to the Member by the Company, net of any liabilities assumed by the Member or subject to which the Member takes such property within the meaning of Code Section 752, and (iii) the Member's share of Net Losses and of any separately

allocated items of deduction or loss, including Company expenditures that are neither deductible by the Company in computing its taxable income nor properly chargeable to capital account pursuant to Code Section 705(a)(2)(B).

8.2        Transfer of Capital Account. In the event of a permitted sale or exchange of a Unit, the Capital Account of the transferor shall become the Capital Account of the transferee to the extent it relates to the transferred Unit in accordance with this Section 8 and Treasury Regulations Section 1.704-1(b)(2)(iv).

8.3        Determination of Capital Account. Except as may otherwise be provided in this Operating Agreement, whenever it is necessary to determine the Capital Account of a Member for purposes of Section 8, the Capital Account of such Member shall be determined after giving effect to all allocations and distributions for transactions effected prior to the time as of which such determination is to be made. Any Member whose Units shall be increased by means of a transfer to such Member of all or part of the Units of another Member shall have a Capital Account which reflects such transfer.

8.4        Compliance with Treasury Regulations. It is the intention of the Members to satisfy the capital account maintenance requirements of Treasury Regulations Section 1.704-1(b)(2)(iv), and the provisions herein defining Capital Accounts are intended to comply with such provisions. If the Managers determine that adjustments to Capital Accounts are necessary to comply with such regulations, then the adjustments shall be made to cause the allocations of profits, losses, income, gain and credit pursuant to Section 9 to have substantial economic effect under the Treasury Regulations promulgated under Code Section 704(b), provided such adjustments do not have a material impact upon the manner in which property is distributed to the Members upon the dissolution of the Company. Notwithstanding anything herein to the contrary, except as provided in Section 8.9, this Operating Agreement shall not be construed to create a deficit restoration obligation or otherwise personally obligate any Member to make a Capital Contribution in excess of such Member's initial Capital Contribution.

8.5        Interest on Capital. No interest shall be paid on Capital Accounts.

8.6        Return of Capital. Except as otherwise specifically provided herein, no Member shall have the right to demand or to receive the return of all or any part of such Member's Capital Account or Capital Contributions.

8.7        Additional Capital Contributions. Both Members may make additional voluntary Capital Contributions at any time to reduce any negative balance in such Member's Capital Account. Further, although it is the initial plan of both Members to maintain equal Capital Accounts, to the extent agreed upon by both Managers, each Member may make additional contributions to such Member's Capital Account.

8.8        Loans. In the event the Company has insufficient funds to meet its

obligations as they come due and to carry out its affairs, then, in lieu of the Board of Managers' borrowing from third parties or selling assets to provide required funds, the Company may, but shall not be required to, borrow such funds from one or more of the Members; provided that the terms of such borrowing shall be no less favorable to the Company than for similar borrowing from commercial lending institutions. No such loans by a Member shall be deemed a Capital Contribution.

8.9 Restoration of Negative Capital Accounts. At no time during the term of the Company or upon the dissolution and liquidation of the Company shall a Member with a negative balance in such Member's Capital Account have any obligation to the Company or to any other Member to restore such negative balance, except in respect of any negative balance resulting from withdrawal of capital or from a distribution in contravention of this Operating Agreement or applicable Treasury Regulations.

8.10 Certain Capital Account Adjustments. The Capital Accounts of the Members shall be increased or decreased pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(f) to reflect adjustments to the Gross Asset Values of Company assets (including intangible assets such as goodwill).

(a) The Gross Asset Values of all Company assets shall be adjusted to equal their respective gross fair market values, as determined by the Board of Managers, as of the following times: (i) the acquisition of additional Units by any new or existing Member in exchange for more than a de minimis Capital Contribution; (ii) the distribution by the Company to a Member of more than a de minimis amount of Company property as consideration for Units; and (iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that the adjustments pursuant to clauses (i) and (ii) above shall be made only if the Board of Managers reasonably determine that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members in the Company.

(b) The Gross Asset Value of any Company asset distributed to any Member shall be the gross fair market value of such asset on the date of distribution.

(c) The Gross Asset Values of Company assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this Section 8.10(c) to the extent the Board of Managers determines that an adjustment pursuant to Section 8.10(a) is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this Section 8.10(c).

(d) If the Gross Asset Value of an asset has been determined or adjusted pursuant to Section 8.10(a) or Section 8.10(c), or to fair market value upon contribution,

such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Profits and Net Losses.

(e) If Company property is properly reflected in the Capital Accounts of the Members and on the books of the Company at a book value that differs from the adjusted tax basis of such property, then the Members' distributive shares of depreciation, amortization, and gain or loss, as computed for tax purposes with respect to such property, must be determined to take into account such differences pursuant to Treasury Regulations Section 1.704-1(b)(4)(i).

9. Allocation of Net Profits and Net Losses; Allocation of Gain or Loss on Sale or Liquidation; Taxes.

9.1 Allocation of Net Profits and Net Losses. Net Profits and Net Losses of the Company shall be allocated among Members pro rata in proportion to the respective Units held as of the date of such allocation.

9.2 Gains and Losses. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Member in complete liquidation of such Member's interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event that Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event that Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

9.3 Property. Notwithstanding anything herein to the contrary, items of income, gain, loss and deduction with respect to any property contributed by a Member (or property the basis in which is determined by reference to the basis of such contributed property) shall be allocated among the Members so as to take account of the variation between the basis of the property to the Company and its value at the time of contribution, in accordance with Code Section 704(c).

9.4 Limitations on Allocations. Notwithstanding any other provision of this Operating Agreement, the allocation provisions of this Operating Agreement are intended to have substantial economic effect pursuant to Treasury Regulations Section 1.704-1(b)(2).

9.5 Distributive Shares of Members. Except as provided herein, for purposes of Subchapter K of the Code, the distributive shares of the Members in each item of Company taxable income, gains, losses, deductions or credits for any Taxable Year will be in the same proportion as the respective Units held as of the relevant date(s) under the Code.

9.6 Tax Elections. The Board of Managers may make any tax elections for the Company allowed under the Code or the tax laws of any Taxing Jurisdiction.

9.7 Income Taxes. To the extent that the laws of any Taxing Jurisdiction require, each Member requested to do so by the Board of Managers will submit an agreement indicating that the Member will make timely income tax payments to the Taxing Jurisdiction and that the Member accepts personal jurisdiction of the Taxing Jurisdiction with regard to the collection of income taxes attributable to the income of the Member from the Company, and interest and penalties assessed on such income. If the Member fails to provide such agreement, the Company may withhold and pay over to such Taxing Jurisdiction with respect to such income. Any such payments with respect to the income of a Member shall be treated as a distribution for purposes of Section 10. The Company may, where permitted by the rules of any Taxing Jurisdiction, file a composite, combined or aggregate tax return reflecting the income of the Company and pay the tax, interest and penalties of some or all of the Members on such income to the Taxing Jurisdiction, in which case the Company shall inform the Members of the amount of such tax, interest and penalties so paid. The Members anticipate that the Company will be treated as a partnership for income tax purposes. To such end, unless the Company subsequently determines otherwise, the Company intends to file partnership tax returns and K-1's, or their equivalent, in all appropriate Taxing Jurisdictions.

10. Cash Distributions. Except as otherwise provided herein, Net Cash from Operations and proceeds from Capital Transactions, if any, shall be distributed at such times as the Board of Managers may determine, pro rata in proportion to the respective Units held as of the date of such distribution. Subject to the preceding sentence, the Company shall, at a minimum, distribute cash on a yearly basis sufficient to provide each Member with funds sufficient to pay such Member's federal income tax obligations on the Company's earnings, assuming taxation at the highest marginal federal income tax rate.

## 11. Management.

11.1 Management Authority. Management of the Company shall be vested in a Board of Managers comprised by Thomas C. Miller and Robert C. Miller. No one Manager may take or effect any action on behalf of the Company or otherwise bind the Company in the absence of a formal delegation of authority by the Board of Managers to such Manager or as otherwise permitted by this Operating Agreement. Unless authorized to do so by this Operating Agreement or by the Board of Managers, no Member, officer, employee, attorney-in-fact or other agent shall have any power or authority to bind the Company. If at any time there is no Manager on the Board of Managers, any action required or permitted to be taken hereunder or under law by the Board of Managers may be taken upon the affirmative vote of the holders of a majority of the Units then outstanding and represented at a meeting of the Members.

11.2 Board of Managers. The initial Board of Managers shall consist of two

Managers. Thomas C. Miller and Robert C. Miller shall each be designated as a Manager and shall comprise the Board of Managers from and after the date of this Operating Agreement. Except as provided in the Law or otherwise in this Operating Agreement, each of the Managers shall have full power and authority to act for and on behalf of the Company and do all such lawful acts and things as are not otherwise limited, restricted or reserved by the Law or other statute or by this Operating Agreement; provided, however, that the approval of a majority of the Board of Managers shall be required with respect to each of the following matters involving the Company:

- (i) Selling any Units or securities of the Company;
- (ii) Admitting additional Members of the Company;
- (iii) Incurring any indebtedness, other than in the ordinary course of business, including without limitation the incurring of any indebtedness in an amount greater than Five Thousand Dollars (\$5,000);
- (iv) Engaging or retaining any employee, consultant, agent, independent contractor, attorney or accountant and determining the terms of such engagement or retention;
- (v) Selling, leasing, exchanging or otherwise disposing of any property of the Company, including any proprietary rights of the Company;
- (vi) Entering into any agreement, including any license or lease agreement (a) lasting twelve (12) months or more in duration or (b) requiring aggregate payments in an amount greater than Fifty Thousand Dollars (\$50,000);
- (vii) Causing the Company to form other companies or to participate in any other ventures or entities in furtherance of its purposes;
- (viii) Prosecuting, defending, settling or compromising claims, and satisfying judgments, by or against the Company;
- (ix) Investing excess Company funds;
- (x) Obtaining and maintaining casualty, liability, indemnification, fidelity, business interruption and other insurance;
- (xi) Liquidating, dissolving or winding up the Company or causing the Company to file under any bankruptcy act or creditors' protective statute; consenting to a receiver, trustee, conservator or trustee; or making any assignment for the benefit of Creditors of the Company;

- (xii) Undertaking any action which materially deviates from an annual approved budget;
- (xiii) Approving, setting or otherwise determining any compensation or benefits to be paid or granted to the Managers, or either of them;
- (xiv) Approving, setting or otherwise determining any distributions of cash or property of the Company to be made to the Members;
- (xv) Changing the nature of the business carried on by the Company;
- (xvi) Merging or consolidating the Company with any other business entity;
- (xvii) Entering into, or amending, any agreement with any affiliate of the Company; or
- (xviii) Undertaking any act other than in the ordinary course of business.

11.3 Resignation or Removal of Managers. A Manager may resign as such at any time, after giving not less than thirty (30) days written notice to all other Managers on the Board of Managers. A majority of the Managers may bring an action in any court having jurisdiction to remove a Manager for Cause. "Cause" shall be deemed to mean (i) intentional misconduct; (ii) misappropriation of Company funds; (iii) breach of a fiduciary duty to the Company; or (iv) any other appropriate reason under the law of the State of Colorado. The resignation or removal of a Manager who is a Member shall not affect his rights as a Member or constitute a withdrawal of such Member. Following the resignation or removal of any Manager, a new Manager will be elected, upon the vote or written consent of the Members.

11.4 Term of Managers. Each Manager named in Section 11.2, or thereafter elected pursuant to Section 11.3, shall hold such position until such Manager resigns or is removed pursuant to Section 11.3 hereof.

11.5 Other Activities of Managers; Non-competition. The Managers shall devote such time and efforts to the business of the Company as may reasonably be necessary to conduct its business and fulfill its purposes. A Manager shall not be required to manage the Company as his sole and exclusive function and he may have other business interests and engage in other activities in addition to those relating to the Company; provided, however, that while appointed as a Manager of the Company, no Manager shall be permitted to, and each Manager shall agree that he will not, in any manner, directly or indirectly, as an officer, director, manager, employee, consultant, principal, partner, member, shareholder or otherwise assist or help others, except on



behalf of the Company or for its benefit, engage in any business or field that is the same as, substantially similar to or otherwise in competition with any business in which the Company is engaged or which the Company is contemplating engaging.

11.6 Conflicts of Interest. A Manager shall not be prohibited from or otherwise limited in employing, contracting with (including, but not limited to, contracts for the sale, exchange, or lease of the Company property otherwise permitted under this Operating Agreement), or otherwise dealing with, any person by reason of the fact that such person is a Manager or an affiliate, or is an entity in which any Manager has an interest, whether such relationship, affiliation or interest is direct or indirect, provided that the fact of such relationship or affiliation is known or disclosed to all Managers and the terms and conditions, including the price, of such employment, contract or other dealing are fair and reasonable and in the best interests of the Company.

11.7 Compensation of Managers. Each Manager shall be reimbursed for all reasonable expenses incurred in managing the Company. Each Manager shall be compensated for managing and working for the Company as indicated on Schedule B to this Operating Agreement, or as otherwise determined from time to time by unanimous vote or unanimous written consent of the Board of Managers in accordance with Section 11.2 hereof.

11.8 Liability of Managers. No Manager shall be liable, responsible or accountable for damages or otherwise to the Company, or any Member, for any action taken or failure to act on behalf of the Company within the scope of the authority conferred on the Managers by this Operating Agreement or the Members, unless (i) such action or omission was performed in bad faith or involved intentional misconduct or a knowing violation of law, or (ii) the Manager personally gained in fact a financial profit or other advantage to which the Manager was not legally entitled.

11.9 Indemnification of Managers. The Company shall indemnify, defend and hold harmless the Managers from any claim, loss, expense, liability, action or damage resulting from any such act or omission, including, without limitation, reasonable costs and expenses of litigation and appeal (and reasonable attorneys' fees and expenses); but a Manager shall not be entitled to be indemnified or held harmless due to, or arising from, his fraudulent act, bad faith, breach of the duty of loyalty, wanton or willful misconduct, or gross negligence. Any such indemnity shall be provided out of and to the extent of Company assets only, and no Member will have any personal liability on account thereof.

11.10 Loans between the Company and Members. With the prior written consent of the Board of Managers, a Member may lend any amount to the Company, in accordance with Section 8.8 of this Operating Agreement.

11.11 Payment of Company Debt by Member. In the event a Member is required to pay a debt or obligation of the Company, for any reason whatsoever, such payment shall be treated as an interest bearing loan by such Member to the Company, which loan shall be payable

on demand of such Member and shall bear interest at the Applicable Federal Rate for demand loans as defined in Code Section 7872 and as in effect for the month in which the Member pays such debt or obligation.

11.12 Tax Matters Partner. The "Tax Matters Partner" required under Code Section 6231 et seq. shall be a Manager designated as such by the Board of Managers from time to time. The initial Tax Matters Partner shall be Robert C. Miller.

11.13 Taxation of Company. Pursuant to Section 9.6 of this Operating Agreement, unless the Members agree otherwise, the Board of Managers shall cause the Company to take all actions necessary to cause the Company to be taxed as a partnership under the Code and the relevant laws of all Taxing Jurisdictions.

11.14 Action by and Meetings of the Board of Managers.

(a) Each Manager shall have one vote; and unless otherwise required by this Agreement, the vote of a majority of the Managers present at a duly called and constituted meeting shall be required for the taking of any action. The participation of Managers with a majority of votes shall constitute a quorum for the transaction of business.

(b) Any action required or permitted to be taken at a meeting of the Board of Managers may be taken without a meeting if all of the Managers consent thereto in writing.

(c) Regular meetings of the Board of Managers may be held with or without notice. Special meetings of the Board of Managers may be held upon notice to the Managers and may be called by any Manager upon at least one day's notice to each other Manager. Notice of any meeting need not be given to any Manager who signs a written waiver of notice, whether before or after the meeting. The attendance of any Manager at a meeting, without protesting prior to the conclusion of the meeting, the lack of notice of such meeting shall constitute an effective waiver of notice by such Manager. Neither the business to be transacted at, nor the purpose of, any meeting of the Managers need be specified in the notice or waiver of notice of such meeting. Meetings may be held by conference telephone call or other means of communication, provided that all participating Managers are able to hear each other.

12. Use of Agents and Independent Contractors. Subject to the provisions of Section 11.2 of this Agreement, the Board of Managers may engage such attorneys, accountants, clerks, employees, agents, brokers, investment counsel, officers, contractors, subcontractors, and such other individuals, firms or corporations as they shall deem necessary or helpful in connection with the business of the Company, at such wages, fees, compensation, remuneration, commission rates, prices, consideration, or otherwise and upon such terms and conditions as the Board of Managers shall deem proper.

13. Payment for Services Rendered. If any Member shall be employed by the Company

or render services to the Company, such Member shall be compensated for the reasonable value of such services in such a manner as shall be determined by the Board of Managers; provided, however, that the Board of Managers shall have approved of such Member's employment by or the rendering of service to the Company prior thereto. Such payment for services rendered shall be treated as an expense of the Company in determining the Company's Net Profits and Net Losses for the Taxable Year in which such compensation is paid.

14. Fiscal Year. The fiscal year of the Company shall be the Taxable Year.

15. Books and Records. The Board of Managers shall keep complete and accurate books of account of the Company. The books of the Company shall be kept at the Company's principal place of business. The Company books shall be open for examination by the Members (and their duly authorized representatives) during each Taxable Year of the Company without prior notice to the Members or the Managers, provided such examination is conducted during normal business hours.

16. Bank Accounts. A bank account or accounts shall be opened in such bank or banks as the Board of Managers may determine in which all of the funds of the Company shall be deposited. Withdrawals shall be made from such bank account or accounts, in such manner and in such form as the Board of Managers may from time to time determine.

17. Transferability of Units; Withdrawal.

17.1 Transfer of Units. Except by operation of law as provided in the Law, or as otherwise provided in this Operating Agreement, no Member may transfer all or any part of the Units held by such Member except upon (i) the consent of the Board of Managers, (ii) the consent of all the Members, (iii) the execution by the transferee of a counterpart of this Operating Agreement whereby such person agrees to be bound by the terms and conditions hereof, (iv) the receipt by the Board of Managers of an opinion of counsel that such transfer is permissible under applicable federal and state securities laws and will not result in the termination of the Company pursuant to Code Section 708, and such other documents or instruments as the Board of Managers, upon advice of counsel, may reasonably require, and (v) payment by such Member of any expenses incurred by the Company to effect such transaction.

17.2 Permitted Transfers. Notwithstanding any provision to the contrary contained in this Operating Agreement, as may be amended from time to time, each Member shall have and at all times retain the right to give, sell or otherwise transfer all or any part of his or her Units to a person who has previously been admitted to the Company as a Member ("Permitted Transferees"). Any Permitted Transferee shall be admitted as a Member of the Company upon the execution by such Permitted Transferee of a counterpart of this Operating Agreement and such other documents or instruments as the Board of Managers, upon advice of counsel, may reasonably require.

17.3      Transfer of Units Held by a Custodian, Guardian or Trustee. Notwithstanding any provision to the contrary contained in this Operating Agreement, Units held by any custodian, guardian or trustee or trustees for a minor may be transferred to such person upon the attainment of the age of majority (or such later date as is provided by the terms of the trust), or may be transferred to a successor custodian, guardian or trustee.

17.4      Voluntary Withdrawal. Intentionally left blank.

17.5      Involuntary Withdrawal. Upon the occurrence of an event of Involuntary Withdrawal, the successor of the withdrawn Member shall become the holder of the Member's Economic Interest but shall not become a Member except in accordance with Section 20.1.

17.6      Reasonableness of Provisions Regarding Transfer. Each Member hereby acknowledges the reasonableness of the prohibition contained in this Section 17 in view of the purposes of the Company and the relationship of the Members. The transfer of any Unit or portion thereof in violation of the provisions of this Section 17 shall be invalid, null and void, and of no force or effect. Any person to whom a Unit or a portion thereof is attempted to be transferred in violation of this Section 17 shall not be entitled to receive distributions or allocations from the Company or have any other rights in or with respect to such Unit(s).

18.      Dissolution; Distribution on Dissolution; Winding-Up.

18.1      Dissolution Events. The Company shall be dissolved, and there shall be a winding-up of its affairs as provided in this Section 18, upon the earliest to occur of the following Dissolution Events:

- (i)      Dissolution of the Company by the unanimous written consent of the Members;
- (ii)      The sale or other disposition of all or substantially all of the assets of the Company;
- (iii)      Inability of the Board of Managers to reach agreement regarding the management of the business and affairs of the Company;
- (iv)      The happening of any other event causing the dissolution of the Company under applicable law.

18.2      Involuntary Withdrawal of Member. Except as set forth in Section 18.1, the Company shall continue in existence and shall not be dissolved in the event of the Involuntary Withdrawal of, or the assignment of a Member's entire interest in the Company by, any Member or the occurrence of any event which terminates the membership of any such Member (other than a voluntary withdrawal or resignation in accordance with Section 17.4 hereof); provided, however,

that in the event the Company has only two (2) Members at the time of any Involuntary Withdrawal of, or the assignment of a Member's entire interest in the Company by, any Member or the occurrence of any event which terminates the membership of any such Member (other than a voluntary withdrawal or resignation in accordance with Section 17.4 hereof), then such event shall be deemed a Dissolution Event within the meaning of Section 18.1 of this Agreement.

18.3        Distribution on Dissolution. The Company's books shall be closed as of the date of a Dissolution Event, as if such date were the last day of a Taxable Year. As expeditiously as possible upon the dissolution of the Company, the Board of Managers, or the Members if there is no Manager, shall distribute the assets in accordance with Section 17-29-708 of the law.

18.4        Intentionally Deleted

18.5        Termination of Company. The Company shall be terminated when all known Company liabilities have been satisfied and all Liquidation Proceeds have been applied in the manner prescribed above.

18.6        Deficit Capital Account. Except as provided in Section 8.9 of this Operating Agreement, upon a liquidation within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), if any Member has a deficit Capital Account (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all Taxable Years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other person or entity for any purpose whatsoever.

18.7        Return of Capital. Except as provided by law or as expressly provided in this Operating Agreement, upon dissolution each Member shall look solely to the assets of the Company for the return of such Member's Capital Contribution. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return the Net Capital Contribution of one or more Members, such Member or Members shall have no recourse against the Managers or any other Member.

19.        Amendment of Operating Agreement. This Operating Agreement may not be amended, altered or modified at any time except upon the written agreement of all Members of the Company who are also Managers of the Company as of the date of such amendment.

20. Additional Members.

20.1 Admission of Additional Members Other than Transferees. Subject to the limitations contained in this Section 20, additional Members who are not Permitted Transferees of existing Members pursuant to Section 17.2 of this Operating Agreement may be admitted to the Company only upon the compliance by any prospective member with the requirements of Section 17.1 of this Operating Agreement. However, notwithstanding any other provision of this Operating Agreement, Units or fractional portions thereof may be issued from time to time upon such terms and conditions as the Board of Managers in its sole discretion shall determine.

20.2 Authorized Units. Notwithstanding any other provision of this Operating Agreement, the Company shall not be authorized to sell or issue more than 1,000 Units; provided, however, that the Company may re-sell and re-issue from time to time Units it has previously re-acquired.

21. Adjustment of Basis Election. In the event of a transfer of the Units held by a Member, or upon the Involuntary Withdrawal of a Member, or in the event of the distribution of Company property to any party hereto, the Company may, in the discretion of the Board of Managers upon notice from such Member or deceased Member's authorized representative or counsel, file an election, in accordance with Code Section 754, and applicable Treasury Regulations, to cause the basis of the Company property to be adjusted for federal income tax purposes, as provided by Code Sections 734 and 743.

22. Miscellaneous.

22.1 Binding Effect. This Operating Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their heirs, executors, administrators, successors and assigns, including any transferee who receives Units or an interest in the Company in violation of the restrictions contained in this Operating Agreement.

22.2 Headings. Section headings contained in this Operating Agreement are for convenience of reference only and shall not be deemed a part of this Operating Agreement.

22.3 Governing Law. This Operating Agreement shall be governed by and shall be construed in accordance with the laws of the State of Colorado without regard to conflicts of laws principles.

22.4 Notice. Any notice, payment, demand or communication required or permitted to be given by any provision of this Operating Agreement shall be in writing and shall be delivered by any means capable of providing verification of receipt, addressed as follows:

(a) If to the Company:

Feathered Elk Ranch, LLC  
508 Smith Street  
Fort Collins, CO 80524

or to such other address as the Company may from time to time specify by notice to the Members.

(b) If to a Member or Manager:

Thomas C. Miller  
508 Smith Street  
Fort Collins, CO 80524

Robert C. Miller  
1 Deforest Drive  
Cortlandt Manor, NY 10567

Jigsaw Adventure Companies, LLC  
508 Smith Street  
Fort Collins, CO 80524

or to such other address as such Member or Manager may from time to time specify by notice to the Company.

All notices shall be deemed to be delivered, given and received for all purposes as of the date received.

22.5        Construction. Every covenant, term and provision of this Operating Agreement shall be construed simply according to its fair meaning and not strictly for or against any Member.

22.6        Severability. Every provision of this Operating Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity or legality of the remainder of this Operating Agreement.

22.7        Incorporation By Reference. Every exhibit, schedule and other appendix attached to this Operating Agreement and referred to herein is hereby incorporated in this Operating Agreement by reference.

22.8        Cooperation of Members. Each Member, upon the request of the Managers or officers agrees to perform all further acts and execute, acknowledge and deliver any documents which may be reasonably necessary, appropriate or desirable to carry out the provisions of this Operating Agreement.

22.9        Variation of Pronouns. All pronouns and any variations thereof shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

22.10       Counterparts. This Operating Agreement may be executed in any number of counterparts with the same effect as if all of the Members had signed the same document. All counterparts shall be construed together and shall constitute one agreement.



IN WITNESS WHEREOF, the parties hereto have duly executed this Operating Agreement as of the day first above written.

Feathered Elk Ranch, LLC

By: \_\_\_\_\_

\_\_\_\_\_  
Thomas C. Miller, Manager

\_\_\_\_\_  
Robert C. Miller, Manager

Jigsaw Adventure Companies, LLC

By: \_\_\_\_\_

**SCHEDULE A**

**MEMBERSHIP AND UNITS**

<u>Name and Address</u>	<u>Aggregate Capital Contributions</u>	<u>Units</u>
Jigsaw Adventure Companies, LLC 508 Smith Street Fort Collins, CO 80524	100.0%	

**SCHEDULE B**

**MANAGERS**

Name and Address

Thomas C. Miller  
508 Smith Street  
Fort Collins, CO 80524

Robert C. Miller  
1 Deforest Drive  
Cortlandt Manor, NY 10567

IN WITNESS WHEREOF, the parties hereto have duly executed this Operating Agreement as of the day first above written.

Feathered Elk Ranch, LLC

By: 

Thomas Miller

Thomas C. Miller, Manager



Robert C. Miller, Manager

Jigsaw Adventure Companies, LLC

By: Thomas Miller