

Exhibit 5

part B

confirm the agreement of the transferee to be bound by the provisions of this Article 10. In the case of a Transfer of Units at death or involuntarily by operation of law, the Transfer shall be confirmed by presentation to the Company of legal evidence of such Transfer, in form and substance satisfactory to counsel to the Company. In all cases, the Company shall be reimbursed by the transferor or transferee for all costs and expenses that it reasonably incurs in connection with such Transfer.

10.2.2.2 The transferor and transferee shall furnish the Company with the transferee's taxpayer identification number, sufficient information to determine the transferee's initial tax basis in the Units transferred, and any other information reasonably necessary to permit the Company to file all required federal and state tax returns and other legally required information statements or returns. Without limiting the generality of the foregoing, the Company shall not be required to make any distribution otherwise provided for in this Agreement with respect to any transferred Units until it has received such information.

10.2.2.3 Except in the case of a Transfer of Units at death or involuntarily by operation of law, either (a) such Units shall be registered under the Securities Act of 1933, as amended, and any applicable state securities laws, or (b) such Transfer will be exempt from all applicable registration requirements and will not violate any applicable laws regulating the Transfer of securities and, the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Manager, to such effect.

10.2.2.4 Except in the case of a Transfer of Units at death or involuntarily by operation of law, such Transfer will not cause the Company to be deemed to be an "investment company" under the Investment Company Act of 1940 as amended, and the transferor shall provide an opinion of counsel, which opinion and counsel shall be reasonably satisfactory to the Manager to such effect and the Manager shall provide to such counsel any information available to them relevant to such opinion.

10.3 *Sale of the Company*

10.3.1 If the Manager and the holders of the Units then outstanding approve a Sale of the Company (the "Approved Company Sale"), each Member shall consent to and raise no objections against the Approved Company Sale. If the Approved Company Sale is structured as a (i) merger or consolidation, each Member shall waive any dissenters rights, appraisal rights or similar rights in connection with such merger or consolidation or (ii) sale of Units, each Member shall agree to sell all of his Units and rights to acquire Units on the terms and conditions approved by the Manager. Each Member shall take all necessary or desirable actions no connection

with the consummation of the Approved Company Sale as requested by the Company.

10.3.2 The obligations of the Members with respect to the Approved Company Sale are subject to the satisfaction of the following conditions: (i) upon the consummation of the Approved Company Sale, each Member shall receive the same form of consideration and the same portion of the aggregate consideration such Member would have received if such aggregate consideration had been distributed by the Company in complete liquidation pursuant to the rights and preferences set forth in this Agreement as in effect immediately prior to the consummation of the Approved Company Sale and; (ii) each holder of then currently exercisable rights to acquire a class of Units shall be given an opportunity to exercise such rights prior to the consummation of the Approved Company Sale and participate in such sale as holders of such class of Units.

10.3.3 All Members will bear their pro-rata share (based upon the number of Units sold) of the costs of any sale of Units pursuant to an Approved Company Sale to the extent such costs are incurred for the benefit of all such Members and are not otherwise paid by the Company or the acquiring party. Costs incurred by the Members on their own behalf will not be considered costs of the Approved Company Sale.

10.4 *Restrictions on Transfers.* Unless otherwise approved by the Manager, no Transfer of Units shall be made except upon terms which would not, in the opinion of counsel chosen by and mutually acceptable to the Manager and the transferor Member, result in the termination of the Company within the meaning of Section 708 of the Code or cause the application of the rules of Sections 168(g)(1)(B) and 168(h) of the Code or similar rules to apply to the Company. If the immediate Transfer of such Unit would, in the opinion of such counsel, cause a termination within the meaning of Section 708 of the Code, then if, in the opinion of such counsel, the following action would not precipitate such termination, the transferor Member shall be entitled (or required, as the case may be) (i) immediately to Transfer only that portion of his Units as may, in the opinion of such counsel, be transferred without causing such a termination and (ii) to enter into an agreement to Transfer the remainder of his Units, in one or more Transfers, at the earliest date or dates on which such Transfer or Transfers may be effected without causing such termination. The purchase price for the Units shall be allocated between the immediate Transfer and the deferred Transfer or Transfers pro rata on the basis of the percentage of the aggregate Units being transferred, each portion to be payable when the respective Transfer is consummated, unless otherwise agreed by the parties to the Transfer. In the case of a Transfer by one Member to another Member, the deferred purchase price shall be deposited in an interest-bearing escrow account unless another method of securing the payment thereof is agreed upon by the transferor Member and the transferee Member. In determining whether a particular proposed Transfer will result in a termination of the Company, counsel to the Company shall take into account the existence of prior written commitments to

Transfer made pursuant to this Agreement and such commitments shall always be given precedence over subsequent proposed Transfers.

10.5 Prohibited Transfers. Any purported Transfer of Units that is not effected in accordance with the terms and conditions of this Article 10 shall be null and void and of no force or effect whatever; provided that, if the Company is required to recognize a Transfer that is not a Permitted Transfer (or if the Company, in its sole discretion, elects to recognize a Transfer that is not a Permitted Transfer), the interest Transferred shall be strictly limited to the transferor's rights to distributions as provided by this Agreement with respect to the transferred Units, which distributions may be applied (without limiting any other legal or equitable rights of the Company) to satisfy any debts, obligations, or liabilities for damages that the transferor or transferee of such Units may have to the Company. In the case of a Transfer or attempted Transfer of Units that is effected in accordance with the terms and conditions of this Article 10, the parties engaging or attempting to engage in such Transfer shall be liable to indemnify and hold harmless the Company and the other Members from all cost, liability, and damage that any of such indemnified Persons may incur (including, without limitation, increment tax liability and lawyers' fees and expenses) as a result of such Transfer or attempted Transfer and efforts to enforce the indemnity granted hereby

10.6 Rights of Unadmitted Assignees. A Person who acquires one or more Units but who is not admitted as a substituted Member pursuant to Section 10.8 shall hold only a Distribution Interest shall and be entitled only to allocations and distributions with respect to such Interests in accordance with this Agreement, shall have no right to any information or accounting of the affairs of the Company, shall not be entitled to inspect the books or records of the Company, and shall not have any of the rights of a Member under the Act or this Agreement.

10.7 Admission of Transferees as Members. Subject to the other provisions of this Article 10, a transferee of Units may be admitted to the Company as a Member only upon satisfaction of the conditions set forth below in this Section 10.8:

10.7.1 The Manager consents to such admission, which consent may be given or withheld in the sole and absolute discretion of the Manager;

10.7.2 The Units with respect to which the transferee is being admitted were acquired in accordance with the other terms and conditions of this Article 10;

10.7.3 The transferee becomes a party to this Agreement as a Member and executes such documents and instruments as the Manager may reasonably request as may be necessary or appropriate to confirm such transferee as a Member in the Company and such transferee's agreement to be bound by the terms and conditions of this Agreement;

10.7.4 The transferee shall have delivered to the Manager a letter containing a representation and an agreement in the form set forth in Section 10.1.1 of this Agreement;

10.7.5 if the Transferee is not an individual, the Transferee shall have provided the Manager with satisfactory evidence of the Transferee's authority to become a Member under the terms and provisions of this Agreement; and

10.7.6 The transferee pays or reimburses the Company for all reasonable legal, filing, and publication costs that the Member incurs in connection with the admission of the transferee as a Member with respect to the Transferred Units.

10.8 *Covenants; Representations Regarding Transfers; Legend.*

10.8.1 Each Member hereby represents, covenants and agrees with the Company for the benefit of the Company and all Members, that (i) he is not currently making a market in Units and will not in the future make a market in Units, (ii) he will not Transfer his Units on an established securities market, a secondary market (or the substantial equivalent thereof) within the meaning of Code Section 7704(b) (and any regulations, proposed regulations, revenue rulings, or other official pronouncements of the Internal Revenue Service or Treasury Department that may be promulgated or published thereunder), and (iii) in the event such Regulations, revenue rulings, or other pronouncements treat any or all arrangements which facilitate the selling of partnership interests and which are commonly referred to as "matching services" as being a secondary market or substantial equivalent thereof, he will not Transfer any Units through a matching service that is not approved in advance by the Company. Each Member further agrees that he will not Transfer any Units to any Person unless such Person agrees to be bound by this Section 10.8 and to Transfer such Units only to Persons who agree to be similarly bound. The Company shall, from time to time and at the request of a Member, consider whether to approve a matching service and shall notify all Members of any matching service that is so approved.

10.8.2 Each Member hereby agrees that the following legend shall be placed upon any document or instrument evidencing ownership of Units:

THE UNITS REPRESENTED BY THIS DOCUMENT HAVE NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND THE TRANSFERABILITY OF SUCH UNITS IS RESTRICTED. SUCH UNITS MAY NOT BE SOLD, ASSIGNED OR TRANSFERRED, NOR WILL ANY ASSIGNEE, VENDEE, TRANSFEE OR ENDORSEE THEREOF BE RECOGNIZED AS HAVING ACQUIRED ANY SUCH INTERESTS BY THE ISSUER FOR ANY PURPOSES, UNLESS (1) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933, AS AMENDED, WITH RESPECT TO SUCH UNITS SHALL THEN BE IN EFFECT AND SUCH TRANSFER HAS BEEN QUALIFIED UNDER ALL APPLICABLE STATE SECURITIES LAWS, OR (2) THE

AVAILABILITY OF AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION SHALL BE ESTABLISHED TO THE SATISFACTION OF COUNSEL TO THE ISSUER OF THE UNITS.

THE UNITS REPRESENTED BY THIS DOCUMENT ARE SUBJECT TO FURTHER RESTRICTIONS AS TO THEIR SALE, TRANSFER, HYPOTHECATION, OR ASSIGNMENT AS SET FORTH IN THE OPERATING AGREEMENT BETWEEN THE ISSUER OF THE UNITS AND ITS MEMBERS. A COPY OF SUCH OPERATING AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST.

10.9 *Distribution and Allocations in Respect to Transferred Interests.* If any Unit is sold, assigned, or Transferred during any Fiscal Year in compliance with the provisions of this Article 10, income, loss, deduction, credit, each item thereof, and all other items attributable to the Transferred Unit for such Fiscal Year shall be divided and allocated between the transferor and the transferee by taking into account their varying Interests during such Fiscal Year in accordance with Code Section 706(d), using any conventions permitted by law and selected by the Manager. All distributions on or before the date of such Transfer shall be made to the transferor, and all distributions thereafter shall be made to the transferee. Solely for purposes of making such allocations and distributions, such Transfer shall be recognized not later than the end of the calendar month during which it is given notice of such Transfer, provided that, if the Company is given notice of a Transfer at least ten business days prior to the Transfer, the Company shall recognize such Transfer as the date of such Transfer, and provided further that, if the Company does not receive a notice stating the date Units were Transferred and such other information as the Manager may reasonably require within 30 days after the end of the Fiscal Year during which the Transfer occurs, then all such times shall be allocated, and all distributions shall be made, to the Person who, according to the books and records of the Company was the owner of the Units on the last day of the Fiscal Year during which the Transfer occurs. Neither the Company nor any Manager shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 10.10, whether or not any Manager or the Company has knowledge of any Transfer of ownership of any Unit.

10.10 *Termination of Restrictions.* The restrictions set forth in this Article 10 will continue with respect to each Unit until the earliest of (i) the 2010 anniversary of the date of this Agreement and (ii) the consummation of a Sale of the Company.

10.11 *Waiver of Redemption of Distributional Interest* Members hereby agree that no Member shall have a right to have his or her Distributional Interest redeemed by the Company upon Dissociation pursuant to Section 35-60 of the Act

ARTICLE 11
DISSOLUTION AND TERMINATION

11.1 *Events of Dissolution.* The Company shall be dissolved, and shall terminate and wind up its affairs, upon the first to occur of the following:

- 11.1.1 the consent of the holders of a majority of the Class B Units then outstanding; and
- 11.1.2 the sale of substantially all the assets of the Company;
- 11.1.3 the entry of a decree of judicial dissolution or an administrative dissolution under the Act; and
- 11.1.4 any other event requiring the dissolution of the Company under Section 35-1 of the Act.

Notwithstanding the foregoing, if the Members (and any dissociated Member whose Dissociation caused such dissolution) elect to waive such dissolution as provided under Section 35-3 of the Act, the Company may carry on its business as if no dissolution occurred.

11.2 *Liquidation.* If the Company shall be dissolved by reason of the occurrence of any of the circumstances described in Section 11.1, no further business shall be conducted by the Company except for taking such action as shall be necessary for the winding up of its affairs and the distribution of its assets to the Members. Upon such dissolution of the Company, the Manager shall take the following steps:

- 11.2.1 Unless otherwise approved by the Members in accordance with Article 7, dispose of all other Company properties and assets at the best cash price obtainable therefor under the circumstances.
- 11.2.2 Pay all Company debts and liabilities, in the order of priority as provided under applicable law, or otherwise make adequate provision therefor.
- 11.2.3 Determine by independent appraisal the fair market value of the Company properties and assets to be distributed in kind (if permitted under Article 7), and credit or charge (as the case may be) the Capital Account of each Member with the amount that would have been credited or charged to such Member in accordance with Article 4 if such properties and assets had been sold at fair market value.

11.2.4 Credit or charge (as the case may be) each Member's Capital Account with such Member's share of all Company Profits and Company Losses that were not previously reflected in any Capital Accounts and that were realized or incurred during the Fiscal Year or Fiscal Years which include the dissolution and termination, up to and including the date of distribution, net of all distributions that were not previously reflected in any Capital Accounts and that were made to such Member during such Fiscal Years up to but not including such date.

11.2.5 Distribute to each of the Members the balance, if any, of the properties and assets of the Company in accordance with each Member's Capital Account, as adjusted pursuant to Sections 11.2.3 and 11.2.4.

11.2.6 Notwithstanding Sections 11.2.1 through 11.2.5, if any Member shall be indebted to the Company for any reason whatsoever, the liquidator may apply any cash allocated to such Member in accordance with this Section 11.2 to the payment of such indebtedness. If such cash is not sufficient to liquidate such indebtedness in its entirety then, until payment in full of such indebtedness by such Member, the liquidator shall retain such Member's distributive share of the Company properties and assets and, after applying the cost of operation of such properties and assets during the period of such liquidation against the income therefrom, shall apply the balance of such income toward the liquidation of such indebtedness; provided, however, that if upon the expiration of six months after notice of such outstanding indebtedness has been given to such Member, such amount has not been paid or otherwise liquidated in full, the liquidator may sell the assets allocable to such Member at private or public sale at the best cash price immediately obtainable under the circumstances, and so much of the proceeds of such sale as shall be necessary to liquidate such indebtedness shall then be so applied, and the balance (if any) of such proceeds shall be distributed to such Member.

11.2.7 The liquidator shall comply with all requirements of the Act, or other applicable law, pertaining to the winding up of a limited liability company.

11.3 *Filings.* Upon dissolution and complete winding up of the Company, the liquidator shall file any and all certificates and other documents required under the Act including, but not limited to, Articles of Dissolution as required by Section 35-20 of the Act.

11.4 *Termination.* The Company shall terminate when all of the assets of the Company have been distributed in the manner provided for in Section 11.2 of this Agreement, and the Articles shall have been canceled in the manner required by the Act.

**ARTICLE 12
BOOKS AND RECORDS**

12.1 *Books and Records; Accounting.* The Manager shall keep or cause to be kept at the address of the Company (or at such other place the Manager shall determine) accurate and proper books and records regarding the status of the business and financial conditions of the Company. The Fiscal Year of the Company shall be the calendar year.

12.2 *Access to Records, Financial Statements.* Each Member shall have the right to review all Company records, agreements, tax returns, financial statements, balance sheet, and financial projections of the Company, which may be prepared from time to time by or at the request of the Manager or an officer of the Company. The Company shall prepare and furnish to each Member promptly after the close of each fiscal quarter an unaudited statement showing the operations of the Company for such quarter and the balance in each Member's Capital Account. The Manager has the authority to select the Company's accountants and determine whether or not to obtain an audit of the Company's books and records.

12.3 *Annual Reports.* Within ninety (90) days after the end of each Fiscal Year, the Manager shall cause to be prepared and each Member furnished with unaudited financial statements accompanied by a report thereon of the Company's accountants stating that such statements are prepared and fairly stated in all material respects in accordance with generally accepted accounting principles, and, to the extent inconsistent therewith, in accordance with this agreement, including: (i) a copy of the balance sheet of the Company as of the last day of such Fiscal Year; (ii) a statement of income or loss for the Company for the Company for such Fiscal Year; (iii) a statement of the Members' Capital Accounts and changes therein for such Fiscal Year; and (iv) a statement of Company cash flow for such Fiscal Year.

12.4 *Bank Account(s).* All funds of the Company shall be deposited in the name of the Company in such bank or banks as may be agreed upon by the Manager and checks drawn on such account(s) shall require the signature of a Manager. All funds received from the operation and business of the Company shall be promptly deposited in the account(s) maintained in its name and all debts, expenses and charges shall be paid by checks drawn on such account(s). There shall be no commingling of the funds of the Company with the funds of any other entity.

**ARTICLE 13
TAX MATTERS**

13.1 *Company Tax Returns.*

13.1.1 The Manager shall cause to be prepared and timely filed all tax returns required to be filed for the Company, and shall cause to be timely paid all taxes owed by the

Company. The Company shall make an election under Code Section 754. The Manager may, in its discretion, make or refrain from making, any other foreign, federal, state or local income or other tax elections for the Company that it deems necessary or advisable.

13.1.2 MT Property Holdings, LLC is hereby designated as the Company's "Tax Matters Partner" under Code Section 6231(a)(7) and shall have all the powers and responsibilities of such position as provided in the Code. The Manager is specifically directed and authorized to take whatever steps the Manager, in its discretion, deem necessary or desirable to perfect such designation, including filing any forms or documents with the Internal Revenue Service and taking such other action as may from time to time be required under the regulations issued under the Code. Each Member hereby agrees to cooperate with the Tax Matters Partner with respect to all matters within its authority as Tax Matters Partner. Expenses incurred by the Tax Matters Partner, in its capacity as such, will be borne by the Company.

13.2 *Schedules K-1 and Forms 1065.* The Manager shall, as promptly as practicable and in any event within 90 days after the end of each Fiscal Year, cause to be prepared and mailed to each Member of record an Internal Revenue Service Form K-1, Internal Revenue Service Form 1065, and any other forms which are necessary or advisable for the Members to satisfy their federal tax reporting obligations.

13.3 *Taxation as Partnership.* The Members agree that the Company will seek to be treated as a partnership for United States federal income tax purposes. The Manager shall operate the Company in a manner intended to preserve, to the extent practical, the Company's treatment as a partnership for United States federal income tax purposes.

13.4 *Withholding.* Each Member certifies that they are U.S. persons within the meaning of code Section 7701(a)(30). Any Person who may subsequently become a Member shall either (i) provide a certificate of non-foreign status to all Members or (ii) be subject to withholding on all distributions as may be required under the Code.

ARTICLE 14
MISCELLANEOUS

14.1 *Reimbursements.* The Company shall reimburse the Members and the Managers for all expenses incurred and paid by any of them in the organization of the Company and as authorized by the Company, in the conduct of the Company's business, including, but not limited to, expenses of maintaining an office, telephones, travel, office equipment and secretarial and other personnel as may reasonably be attributable to the Company. Such expenses shall not include any expenses incurred in connection with a Member's or Manager's exercise of its rights as a Member or a Manager apart from the authorized conduct of the Company's business. The sole determination of the Manager of which expenses are allocated to and reimbursed as a result of the Company's activities or business and the amount of such expenses shall be conclusive. Such reimbursement shall be treated as expenses of the Company and shall not be deemed to constitute distributions to any Member of profit, loss or capital of the Company.

14.2 *Amendments.* In addition to amendments to this Agreement otherwise authorized under this Agreement, the Manager may, at any time and without consent of any Member, make any amendment to this Agreement provided that such amendment:

14.2.1 does not adversely affect the rights of the Members or their assignees in any material respect;

14.2.2 merely corrects an error or resolves an ambiguity in, or inconsistency among, the provisions of this Agreement;

14.2.3 deletes or adds any provision of this Agreement that is required to be so deleted or added by any federal or state governmental authority;

14.2.4 merely amends this Agreement or the Company's Articles to admit new Members in accordance with this Agreement;

14.2.5 amends Article 4 in accordance with Section 4.3.3;

14.2.6 amends Article 5 in accordance with Section 5.2.8; or

14.2.7 reflects a change in the Act that permits or requires an amendment, without adversely affecting the rights of any Member in any material respect.

Except as otherwise provided in this Agreement, this Agreement may be amended solely by a written instrument executed by the holders of a majority of the Class B Units then outstanding.

14.3 *Successors.* This Agreement shall be binding as to the executors, administrators, estates, heirs and legal successors, or nominees or representatives, of the Members. Except as otherwise provided in this Agreement, no persons other than the Members and their respective executors, administrators, estates, heirs and legal successors, or their nominees or representatives, shall obtain any rights by virtue of this Agreement.

14.4 *Counterparts.* This Agreement may be executed in several counterparts with the same effect as if the parties executing the several counterparts had all executed one counterpart.

14.5 *Integration.* This Agreement constitutes the entire agreement among the Members pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and undertakings of the Members in connection therewith.

14.6 *Entire Agreement.* This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. It supersedes any prior agreement or understandings between them relating to the subject matter hereof, and it may not be modified or amended except in a writing executed by all parties hereto.

14.7 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without giving effect to the principles of conflict of laws thereof.

14.8 *Severability.* This Agreement shall be construed to the maximum extent possible to comply with all of the terms and conditions of the Act. If, notwithstanding the previous sentence, a court of competent jurisdiction concludes that any provisions or wording of this Agreement is invalid or unenforceable under the Act or other applicable law, the invalidity or unenforceability of such provisions or wording will not invalidate the entire Agreement. In such a case, this Agreement will be construed so as to limit any term or provision so as to make it valid or enforceable within the requirements of applicable law and, in the event such term or provisions cannot be so limited, this Agreement will be construed to omit such invalid or unenforceable provisions or term. If it is determined that any provision relating to the distributions and allocations of the Company or to any fee payable by the Company is invalid or unenforceable, this Agreement shall be construed or interpreted so as (a) to make it enforceable or valid and (b) to make the distributions and allocations as closely equivalent to those set forth in this Agreement as permissible under applicable law.

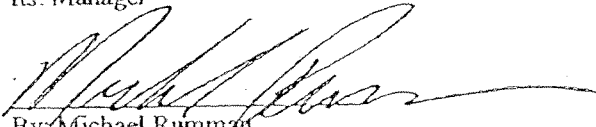
14.9 *Headings.* The Headings in this Agreement are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.10 *Waiver.* No consent or waiver, express or implied, by any Member to or of any breach or default by the other in the performance of obligations hereunder shall be deemed or construed to be a consent or waiver of any other obligations of such Member hereunder. Failure on the part of any Member to complain of any act or failure to act of any other Member or to declare any

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Operating Agreement of Limited Liability Company as of the date first above written.


COMPANY: HERITAGE DEVELOPMENT PARTNERS, LLC,
an Illinois limited liability company

By: HERITAGE PROPERTY DEVELOPMENT, INC.
Its: Manager

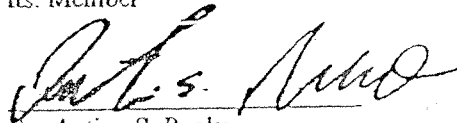


By: Michael Rumman
Its: President

MEMBER: MT PROPERTY HOLDINGS, LLC,
an Illinois limited liability company



By: Michael Rumman
Its: Member

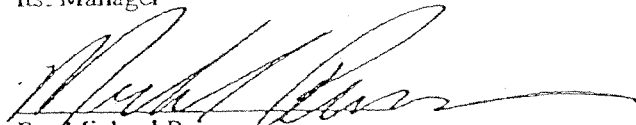


By: Antion S. Rezko
Its: Member

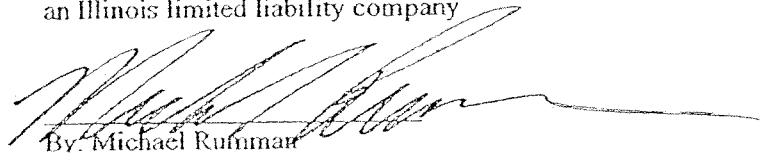
IN WITNESS WHEREOF, the parties hereto have executed and delivered this Operating Agreement of Limited Liability Company as of the date first above written.

COMPANY: **HERITAGE DEVELOPMENT PARTNERS, LLC,**
an Illinois limited liability company

By: **HERITAGE PROPERTY DEVELOPMENT, INC.**
Its: Manager


By: Michael Rumman
Its: President

MEMBER: **MT PROPERTY HOLDINGS, LLC,**
an Illinois limited liability company


By: Michael Rumman
Its: Member

By: Antion S. Rezko
Its: Member

ADDITIONAL MEMBER SIGNATURE PAGE

The undersigned hereby executes the Operating Agreement, dated as of August 15, 2005 (“Agreement”), by and among Heritage Development Partners, LLC, an Illinois limited liability company (the “Company”), and the Members listed on the signature pages thereto. Each of the parties other than the Company may be referred to individually as a “Member” and collectively as the “Members”.

Date: _____, 2206

Name

Address

Signature

HERITAGE DEVELOPMENT PARTNERS, LLC
(on behalf of itself and the Members)

By: _____
Authorized Manager

**SCHEDULE 1
TO THE
HERITAGE DEVELOPMENT PARTNERS, LLC OPERATING AGREEMENT**

Ownership of Members as of April 6, 2006

Member	Class A Units	Class B Units	Capital Contribution
MT Property Holdings, LLC	None	98.108	\$1,000.00
Royal Heritage Investments LLC	1.000	None	\$1,250,000.00
Roosevelt-Clark, L.L.C.	0.392	None	\$490,000.00
Ali and Darlene Baghdadi	0.500	None	\$625,000.00
TOTAL	1.892	98.108	\$2,366,000

**Disclosure Schedules to the
Unit Purchase Agreement (the "Agreement")
by and among**

Antoin S. Rezko (the "Seller"),

and

Orifarm S.A. ("Buyer")

Dated July 24, 2007

These Disclosure Schedules are qualified in their entirety by reference to specific provisions of the Agreement and are not intended to constitute, and shall not be construed as constituting, independent representations or warranties the Seller except as and to the extent provided herein or in the Agreement.

Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Agreement.

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Schedule 2(h)
Members, managers and officers

Members

MT Property Holdings, LLC
Royal Heritage Investments LLC
Roosevelt-Clark, L.L.C.
Ali and Darlene Baghdadi

Manager

Illinois Developer, LLC

Officers

Kenneth J. Haldeman, Vice President of Development

Schedule 2(i)
Unit Ownership Schedule

Member	Class A Units	Class B Units
MT Property Holdings, LLC	None	98.108
Royal Heritage Investments LLC	1.000	None
Roosevelt-Clark, L.L.C.	0.392	None
Ali and Darlene Baghdadi	0.500	None
TOTAL	1.892	98.108

Schedule 2(j)
Liabilities

None

Schedule 2(n)
Active Contracts

None

Schedule 2(p)
Litigation

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

ROOSEVELT/CLARK DEVELOPMENT, L.P.,)

Plaintiff,)

v.)

ANTOIN S. REZKO, DANIEL S. MAHRU,)
and HERITAGE DEVELOPMENT)
PARTNERS, LLC)

Defendants.

No. 06 L 11313

Judge Allen S. Goldberg

Schedule 2(q)
All former employees

Michael Rumman

Kenneth J. Haldeman

H. Edward Wynn

Stephanie Michaels

Laura Gokhman

Maria Wilk

Laura Martinez

Steven Oliver

Alexandra Korompilas

Teneishia Phillips

Schedule 2(r)
Employee Benefit Plans

Heritage Development Partners, LLC 401(k) Savings Plan

Heritage Development Partners, LLC Health Plan

Tab No. 2

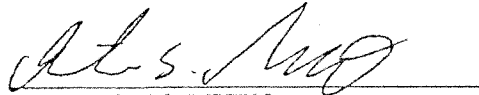
**ASSIGNMENT OF UNITS
OF HERITAGE DEVELOPMENT PARTNERS, LLC**

ASSIGNMENT

MT Properties Holdings, LLC (the "Assignor"), hereby assigns and transfers to Orifarm S.A., a Luxembourg corporation, with a principal place of business located at 3B Boulevard Prince Henri, L - 1724 Luxembourg (the "Assignee"), 60.00 Class B Units in Heritage Development Partners, LLC, an Illinois limited liability company (the "Company").

Date: July 24, 2007

MT PROPERTIES HOLDINGS, LLC



By: ANTOIN S. REZKO

Its: Member

ACCEPTANCE

The Assignee hereby accepts the assignment of the above Units in the Company. In addition, the Assignee hereby executes the Heritage Development Partners, LLC Operating Agreement, dated as of January 1, 2006, as amended ("Agreement"), by and among the Company and the Members listed on the signature pages thereto.

Date: July __, 2007

ORIFARM, S.A.
a Luxembourg corporation

By: _____

Its: _____

CONSENT

The undersigned hereby consent to the assignment of the above Units in the Company.

Date: July __, 2007

ILLINOIS DEVELOPER, LLC
Manager of Heritage Development Partners, LLC

By: _____

Its: _____

20 Jul 07 21:06 Mohammed Almiqdadi +4420 7605 1805
07/20/2007 FRI 14:55 FAX 3122334434 Kirkland & Ellis LLP

P.6
001/002

ASSIGNMENT OF UNITS
OF HERITAGE DEVELOPMENT PARTNERS, LLC

ASSIGNMENT

MT Properties Holdings, LLC (the "Assigner"), hereby assigns and transfers to Orifarm S.A., a Luxembourg corporation, with a principal place of business located at 3B Boulevard Prince Henri, L - 1724 Luxembourg (the "Assignee"), 60.00 Class B Units in Heritage Development Partners, LLC, an Illinois limited liability company (the "Company").

Date: July __, 2007

MT PROPERTIES HOLDINGS, LLC

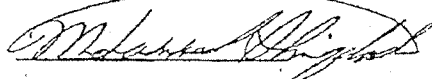
By: ANTOIN S. REZKO
Its: Member

ACCEPTANCE

The Assignee hereby accepts the assignment of the above Units in the Company. In addition, the Assignee hereby executes the Heritage Development Partners, LLC Operating Agreement, dated as of January 1, 2006, as amended ("Agreement"), by and among the Company and the Members listed on the signature pages thereto.

Date: July 21, 2007

ORIFARM, S.A.
a Luxembourg corporation



By: MUHAMMAD AL MIQDADI

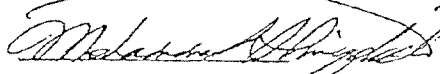
Its: DIRECTOR

CONSENT

The undersigned hereby consent to the assignment of the above Units in the Company.

Date: July 24, 2007

ILLINOIS DEVELOPER, LLC
Manager of Heritage Development Partners, LLC



By: MUHAMMAD AL MIQDADI

Its: DIRECTOR

1367370v3

Tab No. 3

LOAN FORGIVENESS AGREEMENT

THIS LOAN FORGIVENESS AGREEMENT (this "Agreement") is made by General Mediterranean Holding SA, a Luxembourg corporation, Fintrade Services S.A., a Luxembourg corporation (collectively the "Lender") and Antoin S. Rezko, an Illinois resident (the "Borrower").

A. Pursuant to certain promissory notes (the "Notes") listed on Exhibit A hereto, Lender has loaned funds to Borrower totaling \$26,414,297.92 (collectively the "Loans"), subject to the terms and conditions contained therein.

B. Pursuant to that certain Unit Purchase Agreement, dated July 24, 2007 (the "Unit Purchase Agreement"), Orifarm S.A., an affiliate of Lender ("Orifarm"), has agreed to acquire from Borrower and Borrower has agreed to transfer to Orifarm certain Class B Units (the "Interests") of Heritage Development Partners, LLC, an Illinois limited liability company in consideration of the forgiveness by Lender of the Loans and other consideration, as set forth in the Unit Purchase Agreement.

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Immediately upon execution of this Agreement, Lender shall be conclusively deemed to have forgiven the Loans in their entirety, released any and all collateral with respect thereto, and fully released Borrower from any and all covenants, agreements and obligations under the Notes and any other documents evidencing the Loans. Without limiting the generality of the foregoing, Lender acknowledges and agrees that upon such forgiveness and release, Lender shall have no right to receive repayment from Borrower of any principal or interest on the Loans, or any loan fee or similar payment on account of the Loans.

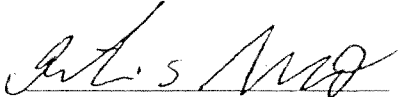
2. Notwithstanding the foregoing, to the extent the Unit Purchase Agreement or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or any consideration received thereunder is required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Loans or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment, proceeds or other consideration for the forgiveness of such Loans had not been received by Lender.

3. This Agreement may be signed by facsimile and/or in counterpart and the delivery of the executed facsimiles shall constitute the delivery of the executed original.

IN WITNESS WHEREOF, the parties have entered into this Loan Forgiveness Agreement as of July 24, 2007.

[End of Text – Execution Page to Follow]

**SIGNATURE PAGE TO
LOAN FORGIVENESS AGREEMENT**


ANTOIN S. REZKO

GENERAL MEDITERRANEAN HOLDING SA,
a Luxembourg corporation

By: _____

Its: _____

FINTRADE SERVICES S.A.,
a Luxembourg corporation

By: _____

Its: _____

20 Jul 07 21:05

Mohammed Almiqdadi

+4420 7605 1805

p.1

SIGNATURE PAGE TO
LOAN FORGIVENESS AGREEMENT

ANTOIN S. REZKO

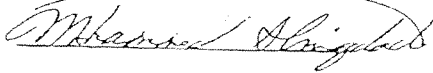
GENERAL MEDITERRANEAN HOLDING SA,
a Luxembourg corporation



By: MOHAMMED AL-MIQDADI

Its: DIRECTOR OF PROJECT DEVELOPMENT

FINTRADE SERVICES S.A.,
a Luxembourg corporation



By: MOHAMMED AL-MIQDADI

Its: DIRECTOR

LOAN FORGIVENESS AGREEMENT

EXHIBIT A

NOTES DETAIL

DATE	PRINCIPAL	INTEREST RATE	CREDITOR
June 30, 2006	\$22,914,297.92	12.0%	GMH
March 30, 2007	\$3,500,000.00	12.0%	Fintrade
TOTAL	\$26,414,297.92		

Tab No. 4

**SECOND AMENDMENT TO
OPERATING AGREEMENT
OF
HERITAGE DEVELOPMENT PARTNERS, LLC**

This Second Amendment to the Operating Agreement of Heritage Development Partners, LLC (this "Amendment") is made as of July 24, 2007 by the Members who have executed this Amendment below.

WHEREAS, Heritage Development Partners, LLC and MT Property Holdings, LLC entered into that certain Operating Agreement of Heritage Development Partners, LLC effective January 1, 2006 (as amended, the "Agreement");

WHEREAS, MT Property Holdings, LLC has, pursuant to an Assignment of Units of even date herewith, transferred 60.0 Class B Units of Heritage Development Partners, LLC to Orifarm S.A., a Luxembourg corporation (the "Assignment");

WHEREAS, the Members desire to amend Schedule 1 of the Agreement to reflect the Assignment;

NOW, THEREFORE, the Agreement is hereby amended as follows:

Schedule 1 of the Agreement shall be replaced in its entirety and replaced with the schedule appearing on the following page:

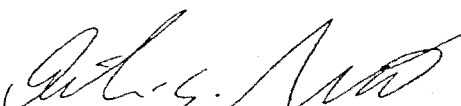
**SCHEDULE 1
TO THE
HERITAGE DEVELOPMENT PARTNERS, LLC OPERATING AGREEMENT**

Ownership of Members as of July 24, 2007

Member	Class A Units	Class B Units	Capital Contribution
Orifarm S.A	None	60.00	\$611.57
MT Property Holdings, LLC	None	38.108	\$388.43
Royal Heritage Investments LLC	1.000	None	\$1,250,000.00
Roosevelt-Clark, L.L.C.	0.392	None	\$490,000.00
Ali and Darlene Baghdadi	0.500	None	\$625,000.00
TOTAL	1.892	98.108	\$2,366,000.00

IN WITNESS WHEREOF, the undersigned has executed this Second Amendment to the Operating Agreement of Heritage Development Partners, LLC effective as of the day and year first written above.

MT PROPERTY HOLDINGS, LLC


By: Antoin S. Rezko, Member

ORIFARM S.A

By:

Its:

20 Jul 07 21:06

Mohammed Almiqdadi

+4420 7605 1805


p.4

IN WITNESS WHEREOF, the undersigned has executed this Second Amendment to the Operating Agreement of Heritage Development Partners, LLC effective as of the day and year first written above.

MT PROPERTY HOLDINGS, LLC

By: Antoin S. Rezko, Member

ORIFARM S.A


By: MOHAMMED AL-MIQDADI

Its: DIRECTOR

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GMH-00000086

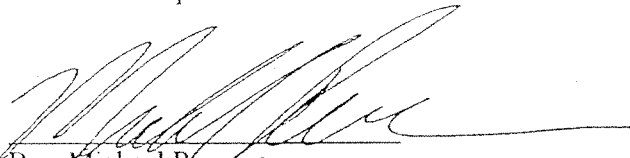
Tab No. 5

**RESIGNATION
AS MANAGER OF
HERITAGE DEVELOPMENT PARTNERS, LLC**

Effective immediately, the undersigned, Heritage Property Development, Inc. ("HPDI"), hereby resigns as Manager of Heritage Development Partners, LLC ("Heritage"), an Illinois limited liability company, without prejudice to HPDI's rights to indemnification under the Heritage operating agreement (including, but not limited to Sections 9.6, 9.8, and 9.9 thereof).

DATED this 24th day of July, 2007.

HERITAGE PROPERTY DEVELOPMENT, INC.,
an Illinois corporation



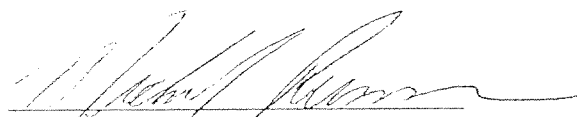
By: Michael Rummman
Its: President

Tab No. 6

RESIGNATION

I, the undersigned, Michael Rumman, hereby resign as Chief Executive Officer of Heritage Development Partners, LLC. Such resignation is to become effective immediately

DATED this 24th day of July, 2007.


Michael Rumman

Tab No. 7

Form LLC-5.25 April 2007	Illinois Limited Liability Company Act Articles of Amendment	FILE # _____ This space for use by Secretary of State.
Secretary of State Jesse White Department of Business Services Limited Liability Division 501 S. Second St., Rm. 351 Springfield, IL 62756 217-524-8008 www.cyberdriveillinois.com	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> SUBMIT IN DUPLICATE Must be typewritten. </div> This space for use by Secretary of State.	
Payment may be made by business firm check payable to Secretary of State. If check is returned for any reason this filing will be void.	Filing Fee: \$150 Approved: _____	

1. Limited Liability Company Name: HERITAGE DEVELOPMENT PARTNERS, LLC

2. Articles of Amendment effective on:
 the file date
 a later date (not to exceed 30 days after the file date) _____
Month, Day, Year

3. Articles of Organization are amended as follows (check applicable item(s) below):
- a) Admission of a new member (give name and address below)*
 - b) Admission of a new manager (give name and address below)*
 - c) Withdrawal of a member (give name below)*
 - d) Withdrawal of a manager (give name below)*
 - e) Change in address of the office at which the records required by Section 1-40 of the Act are kept (give new address, including county below)
 - f) Change of registered agent and/or registered agent's office (give new name and address, including county below) (*Address change of P.O. Box alone or c/o is unacceptable.*)
 - g) Change in the Limited Liability Company's name (give new name below)
 - h) Change in date of dissolution or other events of dissolution enumerated in Item 6 of the Articles of Organization
 - i) Other (give information in space below)

* Changes in members/managers may, but are not required to, be reported in an amendment to the Articles of Organization.

Additional information:

b) New Manager:
 ILLINOIS DEVELOPER LLC
 150 S WACKER DR, SUITE 2660
 CHICAGO, IL 60606

d) Withdrawing Manager:
 Heritage Property Development, Inc.
 233 South Wacker Drive, 95th Floor
 Chicago, Illinois 60606

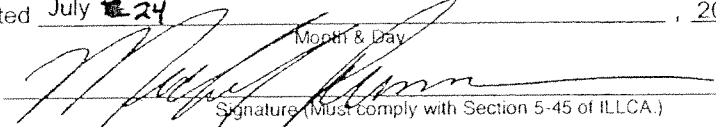
(continued on back)

LLC-5.25

4. This amendment was approved in accordance with Section 5-25 of the Illinois Limited Liability Company Act, and, if adopted by the managers, was approved by not less than the minimum number of managers necessary to approve the amendment, member action not being required; or, if adopted by the members, was approved by not less than the minimum number of members necessary to approve the amendment.

5. I affirm, under penalties of perjury, having authority to sign hereto, that these Articles of Amendment are to the best of my knowledge and belief, true, correct and complete.

Dated July 24, 2007
Month & Day Year


Signature (Must comply with Section 5-45 of ILLCA.)

MICHAEL RUMMAN, PRESIDENT
Name and Title (type or print)

HERITAGE PROPERTY DEVELOPMENT, INC.
If the member or manager signing this document is a company or other entity, state Name of Company and indicate whether it is a member or manager of the Limited Liability Company.

Tab No. 8

**RESOLUTIONS OF THE SOLE MEMBER HOLDING CLASS B UNITS OF
HERITAGE DEVELOPMENT PARTNERS, LLC**

The undersigned, being the sole Member holding Class B Units of Heritage Development Partners, LLC, an Illinois limited liability company (the "Company"), acting pursuant to the Illinois Limited Liability Company Act and the Operating Agreement of the Company, hereby consents to and adopts the following resolutions:

APPOINTMENT OF MANAGER

WHEREAS, Heritage Property Development, Inc. has resigned as Manager of the Company; and

WHEREAS, pursuant to Section 9.2 of the Operating Agreement of the Company, the undersigned, as the sole Member holding Class B Units of the Company, deems it to be desirable and in the best interests of the Company to appoint Illinois Developer, LLC, an Illinois limited liability company, as the manager of the Company.

NOW THEREFORE, BE IT RESOLVED, that the undersigned hereby appoints Illinois Developer, LLC, an Illinois limited liability company, as the manager of the Company.

IN WITNESS WHEREOF, the undersigned has signed this Written Consent as of the 21st day of July, 2007.

MT PROPERTY HOLDINGS, LLC,
the sole Member holding Class B Units


By: Antoin S. Rezko
Its: Member

Tab No. 9

MT PROPERTY HOLDINGS, LLC

UNIT PURCHASE AGREEMENT

THIS UNIT PURCHASE AGREEMENT (this "Agreement"), dated as of July 24, 2007, is between Antoin S. Rezko, an Illinois resident ("Buyer"), and Michael Rumman, an Illinois resident residing at 7B West 15th Street, Chicago, IL 60605 ("Seller").

RECITALS

Seller and Buyer desire to enter into an agreement pursuant to which Buyer will purchase from the Seller, and the Seller will sell to Buyer, 19.6 Class A Units (the "Interests") of MT Property Holdings, LLC, an Illinois limited liability company (the "Company"), for an aggregate purchase price of One million four hundred thousand nine and No/100 Dollars (\$1,409,000.00) (the "Purchase Price").

AGREEMENT

In consideration of the mutual covenants contained herein (which includes, but is not limited to, Seller's releases relating to the employment agreement and guaranty described in the last sentence of Section 8 of this Agreement), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. **Purchase and Sale of the Interests.**

- (a) Basic Transaction. Seller agrees to sell and Buyer agrees to buy, the Interests for the Purchase Price upon the terms and subject to the conditions set forth herein. The effect of such sale is that the Seller hereby irrevocably assign and deliver to the Buyer (or Buyer's assigns) all of Seller's right, title and interest in the Interests, including all rights to any distributions thereon, free of liens or encumbrances.
- (b) Purchase Price. At Closing (as hereinafter defined), Buyer shall pay to Seller as consideration for the Interests the Purchase Price by delivery of a promissory note for \$1,409,000.00, bearing interest at 10% per annum, and payable upon demand by Seller.
- (c) Deliveries at Closing. At the Closing, Seller will deliver to Buyer (i) an executed Assignment of Units, (ii) executed resignations of Heritage Property Development, Inc. ("HPDI") as manager of Riverside District Development LLC ("RDD") and Heritage Development Partners, LLC ("HDP"); and (iii) Seller's resignation as Chief Executive Officer of HDP.
- (d) The Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall occur on or before July 24, 2007 or such other date as the Buyer and the Seller may mutually determine (the "Closing Date"), provided

Buyer has received UCC, Tax, Litigation and Judgment searches with respect to Seller, reflecting no adverse matters affecting Seller's obligations hereunder.

2. **General Representations and Warranties**. Seller hereby represents and warrants on the date hereof and on the date of Closing that:

- (a) Seller is the record owner and holder of the Interests and Seller has not previously assigned, transferred, hypothecated, or in any other manner disposed of or encumbered all or any part of the Interests or any rights relating thereto;
- (b) Seller owns the Interests free and clear of all restrictions on transfers, liens, taxes, encumbrances, security agreements, security interests, options, claims, community property interests, conditions, equitable interests, charges, or restrictions of any other person or entity;
- (c) The Interests represent Seller's only equity interests in the Company. Upon Closing, Seller is not the beneficiary of any right of first refusal, preemptive right or other right to acquire an interest of the Company or any other equity interest in the Company;
- (d) All of the representations and warranties contained in this Section 2, Section 3, and elsewhere in this Agreement are true and correct on the date of this Agreement (except as provided therein);
- (e) The Seller has full power and authority to execute and deliver this Agreement and to perform his or its obligations hereunder, subject to the consent of Company Members as set forth in § 8.1 of the Operating Agreement. This Agreement constitutes the valid and legally binding obligation of the Seller, enforceable in accordance with its terms and conditions. The Seller need not give any notice to, make any filing with, or obtain any authorization, consent, or approval of any government or governmental agency in order to consummate the transactions contemplated by this Agreement;
- (f) Neither the execution and the delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (A) violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, governmental agency, or court to which the Seller is subject or (B) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which the Seller is a party or by which he is bound or to which any of his assets is subject; and
- (g) Attached hereto as **Exhibit A** is a true and correct copy of the Operating Agreement, as amended to date, and Schedule 1 thereto lists all of the Members of the Company immediately prior to the execution of this Agreement.

- (h) Notwithstanding the foregoing, Seller makes no representations or warranties as to assignments or transfers by Buyer to creditors, whether or not Seller consented to same as an accommodation to Buyer.

3. **Representations and Warranties Regarding HDP.** The Seller represents and warrants to the Buyer that, to the Seller's Knowledge (defined below), the statements contained in this Section 3 are correct and complete as of February 28, 2007, that neither Seller nor HDPI has entered into any contract or incurred any liability on behalf of HPD from February 28, 2007 to the Closing Date, and that said representations and warranties will be correct and complete as of the Closing Date (as though made then), except as set forth in the Disclosure Schedule delivered by the Seller to the Buyer on the date hereof and initialed by Buyer and Seller (the "Disclosure Schedule"). Nothing in the Disclosure Schedule shall be deemed adequate to disclose an exception to a representation or warranty made herein, however, unless the Disclosure Schedule identifies the exception with reasonable particularity. For purposes of this Agreement, the Seller will be deemed to have "Knowledge" of a particular fact or other matter only if: (a) the Seller is actually aware of that fact or matter; and (b) neither Buyer nor Mohammed Al Miqdadi is actually aware of that fact or matter. The Disclosure Schedule will be arranged in paragraphs corresponding to the lettered and numbered paragraphs contained in this Section 3.

- (a) Attached hereto as **Exhibit B** and made a part hereof, is a true and correct copy of the operating agreement of HDP.
- (b) HDP is a limited liability company duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization. HDP is duly authorized to conduct business and is in good standing under the laws of each jurisdiction where such qualification is required. HDP has full corporate power and authority and all licenses, permits, and authorizations necessary to carry on the businesses in which it is engaged and to own and use the properties owned and used by it. Section 3(b) of the Disclosure Schedule lists the members, managers and, as applicable, officers of HDP. HDP is not in default under or in violation of any provision of its articles or organization or operating agreements.
- (c) The entire authorized membership interests of HDP consists of 1.892 Class A Units and 98.108 Class B Units (the "HDP Units"), all of which are issued and outstanding. The HDP Units have been duly authorized, are validly issued, fully paid, and nonassessable, and are held of record by the parties as set forth in Section 3(c) of the Disclosure Schedule. There are no outstanding or authorized options, warrants, purchase rights, subscription rights, conversion rights, exchange rights, or other contracts or commitments that could require HDP to issue, sell, or otherwise cause to become outstanding any of its membership interests. There are no outstanding or authorized profit participation, or similar rights with respect to HDP. There are no voting trusts, proxies, or other agreements or understandings with respect to the voting of the membership interests of HDP.
- (d) HDP has no liabilities (and there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against

any of them giving rise to any liabilities), except for liabilities set forth on the on Section 3(d)) of the Disclosure Schedule (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of law).

- (e) HDP has complied with all applicable laws (including rules, regulations, codes, plans, injunctions, judgments, orders, decrees, rulings, and charges thereunder) of federal, state, local, and foreign governments (and all agencies thereof), and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed or commenced against any of them alleging any failure so to comply.
- (f) Tax Matters.
 - (i) All taxes owed by HDP (whether or not shown on any tax return) have been paid. No claim has ever been made by an authority in a jurisdiction where HDP does not file tax returns that it is or may be subject to taxation by that jurisdiction;
 - (ii) HDP has withheld and paid all taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party;
 - (iii) Neither Seller nor any member or manager (or employee responsible for tax matters) of HDP expects any authority to assess any additional taxes for any period for which Tax Returns have been filed. There is no dispute or claim concerning any tax liability of HDP either (A) claimed or raised by any authority in writing or (B) as to which any of Seller and the managers and members (and employees responsible for tax matters) of HDP has knowledge based upon personal contact with any agent of such authority.
 - (iv) HDP has not waived any statute of limitations in respect of taxes or agreed to any extension of time with respect to a tax assessment or deficiency;
- (g) HDP does not own, lease or sublease any real property.
- (h) Section 3(h) of the Disclosure Schedule lists the following active and unexpired contracts and other agreements to which HDP is a party:
 - (i) any agreement (or group of related agreements) for the lease of personal property to or from any person;
 - (ii) any agreement (or group of related agreements) for the purchase or sale of raw materials, commodities, supplies, products, or other personal property, or for the furnishing or receipt of services;
 - (iii) any agreement concerning a partnership or joint venture;

- (iv) any agreement (or group of related agreements) under which it has created, incurred, assumed, or guaranteed any indebtedness for borrowed money, or any capitalized lease obligation;
- (v) any agreement concerning confidentiality or non-competition;
- (vi) any agreement with the Seller or any affiliate of the Seller;
- (vii) any profit sharing, stock option, stock purchase, stock appreciation, deferred compensation, severance, or other material plan or arrangement for the benefit of its current or former directors, officers, and employees;
- (viii) any collective bargaining agreement;
- (ix) any agreement for the employment of any individual on a full time, part time, consulting, or other basis;
- (x) any agreement under which it has advanced or loaned any amount to any of its members, managers, directors, officers, and employees; or
- (xi) any agreement under which the consequences of a default or termination could have a material adverse effect on the business, financial condition, operations, results of operations, or future prospects of HDP.

The Seller has delivered to the Buyer a correct and complete copy of each written agreement listed in Section 3(h) of the Disclosure Schedule (as amended to date) and a written summary setting forth the terms and conditions of each oral agreement referred to in Section 3(h) of the Disclosure Schedule. With respect to each such agreement: (A) the agreement is legal, valid, binding, enforceable, and in full force and effect; (B) the agreement will continue to be legal, valid, binding, enforceable, and in full force and effect on identical terms following the consummation of the transactions contemplated hereby; (C) no party is in breach or default, and no event has occurred which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under the agreement; and (D) no party has repudiated any provision of the agreement.

- (i) There are no outstanding powers of attorney executed on behalf of HDP.
- (j) Section 3(j) of the Disclosure Schedule sets forth each instance in which HDP (i) is subject to any outstanding injunction, judgment, order, decree, ruling, or charge or (ii) is a party or, to the knowledge of Seller is threatened to be made a party to any action, suit, proceeding, hearing, or investigation of, in, or before any court or quasi judicial or administrative agency of any federal, state, local, or foreign jurisdiction or before any arbitrator. None of the actions, suits, proceedings, hearings, and investigations set forth in Section 3(j) of the Disclosure Schedule could result in any material adverse change in the business, financial condition, operations, results of operations, or future prospects of HDP. Seller has no reason

to believe that any such action, suit, proceeding, hearing, or investigation may be brought or threatened against HDP.

- (k) The Company does not currently have any employees. A list of all former employees of the Company is attached hereto as Section 3(k) of the Disclosure Schedule.
- (l) Employee Benefit Plans; Labor Matters.
 - (i) With respect to each employee benefit plan, program, arrangement or contract (including, without limitation, any (x) "employee benefit plan," as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (y) any medical, hospital, disability, salary continuation, leave of absence, educational assistance, pension, and retirement plan, program, arrangement or contract and (z) and any bonus, deferred compensation, stock bonus, stock purchase, restricted stock, stock option, employment, termination, change in control and severance plan, program, arrangement and contract) to which HDP is or was a party, which is or was maintained or contributed to by HDP (the "Company Benefit Plans"), each such Company Benefit Plan is listed on Section 3(l) of the Disclosure Schedule.
 - (ii) With respect to HDP Benefit Plans, no event has occurred and there exists no condition or set of circumstances, in connection with which HDP would be subject to any liability under ERISA, the Internal Revenue Code (the "Code") or any other applicable law which, individually or in the aggregate, would reasonably be expected to have a material adverse effect on HDP.
 - (iii) HDP is not a party to any collective bargaining or other labor union contracts and no collective bargaining agreement is being negotiated by HDP. There is no pending labor dispute, strike or work stoppage against HDP. There is no pending charge or complaint against HDP by the National Labor Relations Board or any comparable state agency.
 - (iv) As of the date hereof, there is no pending or threatened litigation relating to HDP Benefit Plans.
 - (v) Except as set forth on Section 2(q) of the Disclosure Schedule, neither the execution of this Agreement, nor the consummation of the transactions contemplated hereby will (w) entitle any employees of HDP to severance pay or any increase in severance pay upon any termination of employment after the date hereof, (x) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, increase the amount payable or result in any other material obligation pursuant to, any of HDP Benefit Plans, (y) limit or restrict the right of HDP or, after the consummation of the

transactions contemplated hereby, to merge, amend or terminate any of HDP Benefit Plans or (z) result in payments under any of HDP Benefit Plans which would not be deductible under Section 280G of the Code. HDP is not a guarantor or otherwise is liable for any liability or obligation (including indebtedness) of any other person.

- (m) The representations and warranties contained in this Section 3 do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements and information contained in this Section 3 not misleading.

4. **Indemnification of Buyer.** The representations and warranties set forth in Section 2 of this Agreement shall survive the Closing of the transaction contemplated by this Agreement. Seller hereby agrees to indemnify, defend and hold Buyer harmless from or against any and all claims, actions or causes of action, encumbrances, suits, demands, assessments, judgments, losses, liabilities, damages, obligations, costs and expenses (including, without limitation, reasonable attorneys' fees to the extent permitted by law, and accounting fees and investigation costs) that may be suffered, sustained, incurred or required to be paid by Buyer or Buyer's assigns arising out of, or relating to any material breach of any representation or warranty contained in Section 2 or Section 3 or any covenant, obligation or agreement contained herein. In the event of litigation with respect to Knowledge, the prevailing party shall be entitled to recover, from the non-prevailing party, his or its costs and expenses (including, without limitation, reasonable attorneys' fees to the extent permitted by law, and accounting fees and investigative costs).

5. **Acknowledgement of Ongoing Negotiations.** By entering into this Agreement, Seller expressly acknowledges that RDD has been negotiating the sale of the approximately 62 acres of real property located at Roosevelt Road and Clark Street held by RDD (the "Property") with, among others, the DeBartolo Group, U.S. Equities, Shelbourne Development, and Garrett Kelleher. These negotiations are ongoing and may result in an agreement for sale of the Property at any time with these parties or with others. By entering into this Agreement, Seller agrees to forego the proceeds and benefits (if any) that may result from these or future negotiations and expressly acknowledge that Seller is selling the Interests knowing that a sale could take place at any time.

6. **Other Mutual Acknowledgements.** Seller and Buyer have considered and expressly agrees to each of the following:

- (a) Each Seller and Buyer has not relied upon any representation of any party, including (i) either Buyer or Seller, as applicable; (ii) the Company, (iii) HDP, (v) RDD; (vi) General Mediterranean Holdings, SA ("GMH"); or (vii) or any of the foregoing parties' attorneys, accountants, agents or other representatives, concerning the nature, value or extent of the Interests, the Property, or the status of the ongoing efforts to sell the Property.
- (b) No person or entity has promised or induced either Seller or Buyer to enter into this Agreement except as expressly set forth herein.

- (c) Each Seller and Buyer has entered into this Agreement voluntarily and without reliance on any statement or representation by anyone, except as set forth herein.
- (d) Neither Seller nor Buyer desires any additional information from Buyer or the other entities involved in order to evaluate the transaction contemplated by this Agreement.
- (e) Each Seller and Buyer has read and individually, or with the assistance of legal counsel, fully understand the transaction contemplated by this Agreement and the meaning of its provisions.
- (f) Each Seller and Buyer is legally competent to execute this Agreement and to accept full responsibility therefor.

7. **Waiver of Distributions.** Seller waives, as of the closing, any right, interest or title Seller may have to any distributions, whether or not declared or otherwise accrued, on the Interests, except as to the payment of the Purchase Price.

8. **Release.** By entering into this Agreement, excepting Seller and HDPI rights to indemnification ("Indemnification Rights") as later defined herein, Seller hereby fully and forever waives, releases, and discharges, and covenants not to bring, assert, claim, or prosecute any action, lawsuit, or legal or other proceedings of any kind whatsoever against (i) Buyer; (ii) the Company, (iii) HDP, (iv) RDD; (v) GMH; (vi) Orifarm, S.A., (vii) all past and present officers, members, creditors, agents, employees, independent contractors, partners, accountants, advisors, and investors in the foregoing; and/or (viii) the respective predecessors, successors, assigns, subsidiaries, affiliates, heirs, executors, and administrators of all the foregoing (hereinafter collectively referred to as the "Released Parties") with respect to any and all claims, demands, promises, or causes of action of any nature whatsoever, whether known or unknown, foreseen or unforeseen, and whether or not in litigation, which Seller ever had or may have, or which could be asserted by Seller or by another on Seller's behalf. The release made pursuant to this Section 8 shall include, but shall not be limited to, any and all claims against the Released Parties for amounts owed to Seller pursuant to employment, services, management, or other agreements. "Indemnification Rights" include all rights of Seller as a Member or former Member, and all rights of HPDI as a Manager, pursuant to the terms of the operating agreements of the following entities, as applicable: the Company; RDD; and HDP. The terms of the release provided in this Section 8 shall in no way be construed as to prevent the Seller from asserting any defenses, affirmative defenses, third party complaints, offsets, and counterclaims arising in litigation not initiated by Seller. Without limiting the generality of the foregoing, Seller hereby fully and forever waives, releases, and discharges, and covenants not to bring, assert, claim, or prosecute any action, lawsuit, or legal or other proceedings of any kind whatsoever relating to (i) that certain Employment Agreement (the "Employment Agreement") dated June 1, 2005 by and between Rezmar International, LLC (f/k/a Global Development Associates, LLC) and Seller; and (ii) the Guaranty Agreement effective as of March 2006 between HDP and Seller which relates to the Employment Agreement.

9. **Miscellaneous.**

- (a) *Successors and Assigns.* This Agreement is binding upon and inure to the benefit of the successors and assigns of the parties hereto, provided successors and/or assigns shall not have greater or better rights than Buyer.
- (b) *Severability.* In the event that any portion of this Agreement is held to be invalid or unenforceable for any reason, the parties agree that said invalidity or unenforceability shall not affect the other portions of this Agreement and that the remaining covenants, terms and conditions or portions hereof shall remain in full force and effect and any court of competent jurisdiction may so modify the objectionable provision as to make it valid, reasonable and enforceable.
- (c) *Revocation of Earlier Agreements.* Any and all prior agreements relating to the transfer of the Interests made and entered between the parties herein, whether individually or collectively, are hereby revoked and terminated. This Agreement supersedes any prior agreements between the parties hereto on this subject.
- (d) *Arm's Length Negotiation and Counsel.* Seller and Buyer acknowledge that Seller and Buyer has negotiated the terms of this Agreement in an arm's length negotiation and have made an independent evaluation that the Purchase Price is fair and equitable. SELLER AND BUYER FURTHER ACKNOWLEDGE THAT EACH WAS EITHER REPRESENTED BY COUNSEL OF HIS CHOICE OR WAS ADVISED TO SEEK THE ADVICE OF COUNSEL IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.
- (e) *Confidentiality.* The Seller will treat and hold, as confidential, the terms of this Agreement as well as the other agreements of even date herewith entered into among Buyer, Seller, GMH, and the Company and/or their affiliates, ("Confidential Information"), and refrain from using any of the Confidential Information except in connection with this Agreement and the filing of tax returns with respect thereto. In the event that the Seller is requested or required (by oral question or request for information or documents in any legal proceeding, interrogatory, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information, the Seller will notify the Buyer promptly of the request or requirement so that the Buyer may seek an appropriate protective order or waive compliance with the provisions of this Section 9(e). If, in the absence of a protective order or the receipt of a waiver hereunder, the Seller is, on the advice of counsel, compelled to disclose any Confidential Information to any tribunal or else stand liable for contempt, the Seller may disclose the Confidential Information to the tribunal; provided, however, that the disclosing Seller shall use his or its reasonable best efforts to obtain, at the reasonable request of the Buyer, an order or other assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed as the Buyer shall designate. The foregoing provisions shall not apply to any Confidential Information which is generally available to the public immediately prior to the time of disclosure. Notwithstanding the foregoing, Seller shall be entitled to