

## ORDINANCE NO. 17-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HELOTES, TEXAS (THE "CITY") AMENDING ORDINANCE NO. 560, A CHAPTER 380 ECONOMIC DEVELOPMENT AND ANNEXATION AGREEMENT, BETWEEN THE CITY AND 4GB-1, LLC AND NEW LEAF HOMES, LLC (COLLECTIVELY, THE "DEVELOPER") BY CHANGING THE ENTITY NAME "4GB-1, LLC" TO "L&F-1, LLC" THROUGHOUT THE ORDINANCE AND ASSOCIATED AGREEMENT; AUTHORIZING THE CITY ADMINISTRATOR TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS ORDINANCE; INCORPORATING RECITALS; PROVIDING FOR SEVERABILITY; REPEALING ANY OTHER CODE PROVISIONS, ORDINANCES, OR PARTS OF ORDINANCES, AND OTHER PROVISIONS IN CONFLICT HEREWITH; AND ADOPTING AN EFFECTIVE DATE.

**Whereas**, the City of Helotes, Texas (the "City") desires to ensure that the growth and development which occurs within the corporate limits of the City is regulated and controlled in such a manner that said growth is beneficial to the public health, safety, and welfare; and

**Whereas**, the City Council approved Ordinance No. 560, an Ordinance approving a Chapter 380 Economic Development and Annexation Agreement (the "Agreement"), on January 22, 2015 whereby 4GB-1, LLC and New Leaf Homes, LLC agreed to petition for annexation and undertake future municipal projects that preserve and expand the public's health, safety, and welfare in return for certain considerations affecting the development; and

**Whereas**, the Developer has changed the entity name "4GB-1, LLC" to "L&F-1, LLC."

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELOTES, TEXAS THAT:**

**Section One. Approval.** Ordinance No. 560 and the Chapter 380 Economic Development and Annexation Agreement be amended by changing the entity name "4GB-1, LLC" to "L&F-1, LLC" throughout the Ordinance and associated Agreement.

**Section Two. Authorization.** The City Administrator is authorized to take all necessary steps to implement the provisions of this Ordinance.

**Section Three. Recitals.** The legislative findings referenced above are hereby adopted.

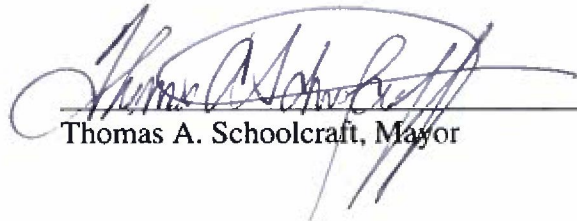
**Section Four. Severability.** Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Ordinance, or any appendix or exhibit thereof, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provisions herein continue to be held unconstitutional or invalid or ineffective, the remainder

shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**Section Five. Repealer.** All Code provisions, ordinances, and other provisions in conflict with the provisions of this Ordinance are hereby repealed.

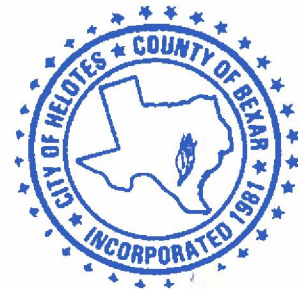
**Section Six. Effective Date.** This Ordinance shall become effective upon passage by the City Council of the City of Helotes, Texas.

**PASSED and APPROVED this 9<sup>th</sup> day of NOVEMBER 2017.**

  
\_\_\_\_\_  
Thomas A. Schoolcraft, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Celina Perez, City Secretary



## ASSIGNMENT OF LEASES AND RENTS

**THE STATE OF TEXAS**

**COUNTY OF BEXAR**

**THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment")** dated this 20<sup>th</sup> day of March, 2017, is executed and delivered by **L&F-1, L.L.C.**, a Texas limited liability company, with an address of 6735 IH 10 West, Suite 103, San Antonio, Texas 78201 ("Assignor"), in favor of **International Bank of Commerce**, a Texas banking association ("Lender"), whose address is 130 E. Travis Street, San Antonio, Texas 78205.

RECTALS:

1. Assignor is the owner of that certain tract of real property described in the Exhibit "A" attached hereto and hereby made a part hereof (the "Land") and, together with all improvements now or hereafter constructed thereon or relating thereto (herein collectively called the "Mortgaged Premises").

2. Lender has required Assignor, and Assignor has agreed, to assign to Lender to provide a source of future payment of the Indebtedness (as defined herein) certain rights in respect of all present and future leases (hereinafter referred to individually as "Lease" and collectively as "Leases") of the Mortgaged Premises.

3. The term "Indebtedness" as used in this Assignment shall mean and include the indebtedness, present and future, owing and to become owing to Lender, as follows:

a. All indebtedness now and hereafter evidenced and to be evidenced by the following: (i) that certain Real Estate Lien Note (the "Note") of even date herewith in the original principal sum of Five Million One Hundred Eighty-Four Thousand and No/100 Dollars (\$5,184,000.00), executed by Assignor, payable to the order of Lender; (ii) that certain Real Estate Lien Note dated the 4<sup>th</sup> day of March, 2015, in the original principal sum of Four Million Five Hundred Eighty-Six Thousand Eight Hundred Seventy-One and No/100 Dollars (\$4,586,871.00), executed by 4GB-1, LLC, a Texas limited liability company, and NewLeaf Homes, LLC, a Texas limited liability company; and (iii) that certain Real Estate Lien Note of even date herewith in the original principal sum of Six Million Six Hundred Sixty-Seven Thousand Two Hundred and No/100 Dollars (\$6,667,200.00), executed by Ovaro Investments, L.L.C., a Texas limited liability company, payable to the order of Lender (such three Notes collectively described herein as the "Note").

b. Any renewals, extensions, increases, modifications and rearrangements of and substitutions for the Note:

c. Any and all sums, together with interest accruing thereon as herein provided, which may hereafter be advanced by Lender and/or owed to Lender under and pursuant to the terms of this Assignment; and

d. All obligations and indebtedness of Assignor or any other person or entity under any document or instrument now or hereafter evidencing or securing payment or performance of all or any part of the Note (the Note and all such other documents or instruments now or hereafter evidencing or securing payment or performance of all or any part of the Note being herein collectively called the "Security Instruments") and all modifications and amendments thereof; subject, however, to the terms, provisions and conditions herein set forth.

**AGREEMENTS AND COVENANTS:**

For and in consideration of the foregoing and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor does hereby assign and covenant as follows:

1. Assignor does hereby TRANSFER, ASSIGN and CONVEY unto Lender all of Assignor's right, title and interest in and to all Leases, in connection with the Mortgaged Premises. Each time Assignor enters into a Lease covering any of the Mortgaged Premises, said Lease shall automatically become subject to this Assignment without further action of either of the parties thereto. Without limiting the effect of the prior sentence, if requested to do so by Lender, Assignor agrees to deliver copies of all Leases presently in force in connection with the Mortgaged Premises to Lender contemporaneously with the execution of this Assignment and when future Leases are executed, copies thereof shall be delivered to Lender forthwith. Each such copy shall contain a statement signed by Assignor that such Lease is subject to this Assignment. The assignment contained in this Assignment of Leases and Rents is absolute, unconditional and presently effective.

2. Assignor will not, without the prior written consent of Lender, unless otherwise in the ordinary course of business, reduce the rent under the Leases; collect or accept payment of any rents thereunder in advance of the time when such rents become due; substantially modify the terms thereof in any way, either orally or in writing; grant any substantial concession in connection with any such Lease, either orally or in writing; or consent to the assignment of the lessee's interest in any such Lease, or to a subletting; and any of such acts, if done without the written consent of Lender, unless otherwise in the ordinary course of business, shall be null and void.

3. In no event shall this Assignment operate to impose any duty or obligation upon Lender to demand, sue for or otherwise make collection of rents or other sums from time to time due and owing by a lessee under any of the Leases.

4. This Assignment, prior to entry upon the Mortgaged Premises by Lender, shall not operate to make Lender a mortgagee in possession nor to place responsibility for the control, care, management or repair of the Mortgaged Premises upon Lender, nor to place responsibility on Lender for carrying out any of the terms and conditions of the Leases, nor shall it operate to make Lender responsible or liable for any waste committed on the property by any lessee or other party, or for any negligence in the management, upkeep, repair or control of the Mortgaged Premises resulting in loss or injury or death to any lessee, licensee, employee or stranger. No liability shall be asserted or enforced against Lender, all such liability being hereby expressly waived and released by Assignor, and should any such action be brought against Lender by reason of this Assignment, then Assignor agrees to reimburse Lender, immediately upon demand, for all costs, expenses and reasonable attorneys' fees incurred.

5. Until receipt from Lender of notice of the occurrence of a default specified in the Security Instruments (hereinafter called a "Notice of Default"), each lessee under the Leases may pay rents under the Leases directly to Assignor and Assignor shall have the right to receive such rents provided that Assignor shall hold such rents as a trust fund to be applied as herein required and Assignor hereby covenants so to apply such rents, before using any part of the same for any other purposes, first, to the payment of taxes and assessments upon the Mortgaged Premises before penalty or interest is due thereon; second, to the cost of insurance, maintenance and repairs required by the terms of the Security Interest; third, to the satisfaction of all obligations specifically set forth in the Leases; and, fourth, to the payment of interest and principal becoming due on the Note to the extent then due and payable. Upon receipt from Lender of a Notice of Default, each lessee under the Leases is hereby authorized and directed to pay directly to Lender all rents thereafter accruing and the receipt of rents by Lender shall be a release of such lessee to the extent of all amounts so paid. The receipt by a lessee under the Leases of a Notice of Default shall be sufficient authorization for such lessee to make all future payments of rents directly to Lender and each such lessee shall be entitled to rely on such Notice of Default and shall have no liability to Assignor for any rents paid to Lender after receipt of such Notice of Default. Rents so received by Lender for any period prior to foreclosure under the Security Instruments or acceptance of a deed in lieu of such foreclosure shall be applied by Lender to the payment (in such order as Lender shall determine) of: (a) all reasonable expenses of managing the Mortgaged Premises, including but not limited to the salaries, fees and wages of a managing agent and such other employees as Lender may deem necessary or desirable; all reasonable expenses of operating and maintaining the Mortgaged Premises, including but not limited to all taxes, assessments, charges, claims, utility costs and premiums for insurance, and the reasonable cost of all alterations, renovations, repairs or replacements; and all reasonable expenses incident to taking and retaining possession of the Mortgaged Premises and/or collecting the rents due and payable under the Leases; and (b) the Note and other indebtedness secured by the Security Instruments, principal, interest, reasonable attorneys' and collection fees and other amounts, in such

order as Lender in its sole discretion may determine. In no event will this Assignment of Leases and Rents reduce the Indebtedness, except to the extent, if any, that rents are actually received by Lender and applied upon or after said receipt to the Indebtedness in accordance with the preceding sentence.

Without impairing its rights hereunder, Lender may, at its option, at any time and from time to time, release to Assignor rents so received by Lender or any part thereof. As between Assignor and Lender, and any person claiming through or under Assignor, other than any lessee under the Leases who has not received a Notice of Default pursuant to this Paragraph 5, this Assignment of Leases and Rents is intended to be absolute, unconditional and presently effective and the provisions of this Paragraph 5 for notification of lessees under the Leases upon the occurrence of a default specified in the Security Instruments are intended solely for the benefit of each such lessee and shall never inure to the benefit of Assignor or any person claiming through or under Assignor, other than a lessee who has not received such notice. It shall never be necessary for Lender to institute legal proceedings of any kind whatsoever to enforce the provisions of this Paragraph

6. At any time during which Assignor is receiving rents directly from lessees under the Leases, Assignor shall, upon receipt of written direction from Lender and to the extent commercially feasible, make demand and/or sue for all rents due and payable under one or more Leases, as directed by Lender, as it becomes due and payable, including rents which are past due and unpaid. In the event Assignor fails to take such action, or at any time during which Assignor is not receiving rents directly from lessees under the Leases, Lender shall have the right (but shall be under no duty) to demand, collect and sue for, in its own name or in the name of Assignor, all rents due and payable under the Leases, as it becomes due and payable, including rents which are past due and unpaid.

7. To the extent not prohibited by applicable law, the Assignor will pay all reasonable costs and expenses and reimburse Lender for any and all reasonable expenditures of every character incurred or expended from time to time, regardless of whether or not a default shall have occurred, in connection with Lender's evaluating, monitoring, administering and protecting any collateral ("Collateral") now or hereafter securing payment of the Note, and creating, perfecting and realizing upon Lender's security interests in and liens on any Collateral, and all reasonable costs and expenses relating to Lender's exercising any of its rights and remedies hereunder or under any of the other Security Instruments or at law, including, without limitation, all reasonable appraisal fees, consulting fees, filing fees, taxes, brokerage fees and commissions, Uniform Commercial Code Search fees, fees incident to other title searches and reports, escrow fees, attorneys' fees, legal expenses, court costs, auctioneer fees and other fees incurred in connection with liquidation of any Collateral and all other professional fees. Any amount to be paid hereunder by the Assignor to Lender shall be a demand obligation owing by the Assignor to Lender and shall bear interest from the date of Notice by Lender to Assignor of such expenditure until paid at the per annum rate provided in the Note for interest on past due payments of principal and interest.

8. Assignor hereby covenants and warrants to Lender that Assignor has not executed any prior assignment of the Leases or rentals therefrom nor has Assignor performed any act, or executed any other instruments which might prevent Lender from operating under any of the terms and conditions of this Assignment, or which limit Lender in such operation.

9. None of the rights or remedies of Lender under the Note or any of the Security Instruments or under any other instrument now or hereafter evidencing or securing payment of all or any part of the Indebtedness shall be delayed or in any way prejudiced by virtue of this Assignment, and this Assignment is intended to be cumulative of and in addition to all such rights and remedies.

10. Upon satisfaction of the Indebtedness described herein and termination of the obligation, if any, of the Lender to make any further advances under the Note, this Assignment shall be deemed null and void and of no further force and effect.

11. All covenants and agreements hereinabove contained on the part of either party shall apply to and bind their legal representatives, successors and assigns.

The absolute assignment of the rents under the Leases contained in this Assignment is in addition to and not in lieu of, the collateral conveyance contained in the Security Instruments. It is the intent of Assignor and Lender that no conflict exist between the absolute assignment contained in

this Assignment and the collateral conveyance contained in the Security Instruments. However, if and to the extent a conflict is perceived to exist as to the rents under the Leases, such conflict shall be resolved in favor of the absolute assignment contained in this Assignment.

EXECUTED effective as of the date first above written.

**ASSIGNOR:**

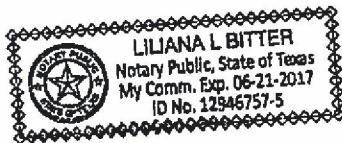
L&F-1, L.L.C.,  
a Texas limited liability company

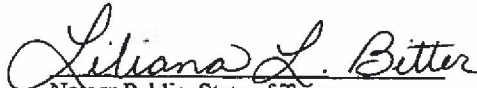
By:   
Fred Ghavidel, President

THE STATE OF TEXAS     §

COUNTY OF BEXAR       §

The foregoing instrument was acknowledged before me this 21 day of March, 2017, by Fred Ghavidel, President of L&F-1, L.L.C., a Texas limited liability company, on behalf of said company.



  
Notary Public, State of Texas

After recording, return to Beneficiary,  
at its mailing address, as follows:  
Mike Applegate  
International Bank of Commerce  
130 E. Travis Street  
San Antonio, Texas 78205

# **EXHIBIT "A"**

**A 102.17 acre tract of land, more or less, situated in the City of Helotes, Bexar County, Texas, being out of the called 100 acre tract of land and out of the eastern half of section five, as described in deed recorded in Volume 6591, Page 259, of the Deed Records of Bexar County, Texas. Said 102.17 acre tract of land being more particularly described by metes and bounds in Exhibit "A", attached hereto and made a part hereof for all intents and purposes.**

**SAVE AND EXCEPT Lots 1, 15, 16, 18, 19, 29, 34, 36, 37, 41 and 43, Block 1; Lots 4, 5, 6, 7, 9, 10, 12, 13 and 16, Block 2; Lots 8, 9, 10 and 17, Block 3; Lots 5, 6, 10, 11, 12, 16, 17, 18, 22, 23, 26, 28 and 30, Block 4; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Block 5; Lots 10, 11, 12, 13, 15, 18 and 19, Block 6; Lots 8, 9, 10, 11 and 14, Block 7, and Lots 1, 3, 4, 5, 6, 51, 53, 54 and 55, Block 8, BRICEWOOD SUBDIVISION, UNIT-1, situated in the City of Helotes, Bexar County, Texas, according to plat thereof recorded in Volume 9684, Pages 157-159, Deed and Plat Records of Bexar County, Texas.**

**SAVE AND EXCEPT Lots 1A, 2A, 3A, 4A, 5A, 6A and 7A, Block 3; Lots 1A, 2A, 3A, 4A, 5A and 6A, Block 7, and Lots 8A, 10A, 11A, 12A, 13A, 14A and 15A, Block 8, BRICEWOOD SUBDIVISION, UNIT -1A, situated in the City of Helotes, Bexar County, Texas, according to plat thereof recorded in Volume 9705, Page 130, Deed and Plat Records of Bexar County, Texas.**

EXHIBIT "A"

Barrera Land Surveying  
436 Westport  
San Antonio, Texas 78216  
(210) 444-9021  
(210) 444-9479 (fax)  
dbarrera@barrerasurvey.com

STATE OF TEXAS  
COUNTY OF BEXAR

LEGAL DESCRIPTION  
For  
(TRACT D)  
102.17 Acre Tract

FIELD NOTES describing a 102.17 acre tract of land, being out of the called 100 acre tract of land and out of the eastern half of section five, as described in deed recorded in Volume 6591, Page 239 of the Deed Records of Bexar County, Texas. Said 102.17 acre tract of land, being more particularly described as follows:

**BEGINNING:** At a found 1/2" steel rod on the east right-of-way line of Galin Road, for the south corner of this herein described tract;

**THENCE:** N 65° 53' 10" W, along the east right-of-way line of Galin Road, a distance of 392.16 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** N 65° 00' 57" W, along the east right-of-way line of Galin Road, a distance of 207.56 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** S 34° 06' 30" W, a distance of 14.63 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** N 65° 52' 46" W, a distance of 143.56 feet to a found 1/2" steel rod, for the west corner of this herein described tract;

**THENCE:** N 24° 03' 17" E, a distance of 1681.20 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** N 24° 05' 47" E, a distance of 1923.68 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** N 24° 03' 09" E, a distance of 1237.91 feet to a found 1/2" steel rod, for the north corner of this herein described tract;

**THENCE:** S 66° 28' 01" E, a distance of 384.95 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** S 65° 10' 11" E, a distance of 325.42 feet to a found 1/2" steel rod, for the east corner of this herein described tract;

**THENCE:** S 23° 39' 18" W, a distance of 1934.00 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** S 24° 01' 16" W, a distance of 1923.94 feet to a found 1/2" steel rod, for a corner of this herein described tract;

**THENCE:** S 23° 30' 16" W, a distance of 1873.45 feet to the east right-of-way line of Galin Road and the POINT OF BEGINNING.

Containing 102.17 acres of land (4,450,330 SQ.FT.) more or less. Survey prepared this date.

Date: 02-09-2013 RBV.

  
David Barrera, S.P.L.S. No. 5286



Job No. 274-12

Doc# 20170055596  
# Pages 7  
03/27/2017 8:22AM  
e-Filed & e-Recorded in the  
Official Public Records of  
BEXAR COUNTY  
GERARD C. RICKHOFF  
COUNTY CLERK  
Fees \$46.00

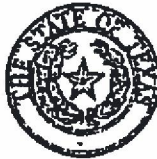
STATE OF TEXAS  
COUNTY OF BEXAR  
This is to Certify that this document  
was e-FILED and e-RECORDED in the Official  
Public Records of Bexar County, Texas  
on this date and time stamped thereon.  
03/27/2017 8:22AM  
COUNTY CLERK, BEXAR COUNTY TEXAS



  
COUNTY CLERK BEXAR COUNTY TEXAS

Form 205  
(Revised 05/11)

Submit in duplicate to:  
Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
512 463-5555  
FAX: 512 463-5709  
Filing Fee: \$300



**Certificate of Formation  
Limited Liability Company**

This space reserved for office use.  
**FILED**  
In the Office of the  
Secretary of State of Texas

FEB 13 2017

**Corporations Section**

**Article 1 – Entity Name and Type**

The filing entity being formed is a limited liability company. The name of the entity is:

L&F-I, L.L.C.

The name must contain the words "limited liability company," "limited company," or an abbreviation of one of these phrases.

**Article 2 – Registered Agent and Registered Office**

(See instructions. Select and complete either A or B and complete C.)

☐ A. The initial registered agent is an organization (cannot be entity named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Fred		Ghavidel	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>

C. The business address of the registered agent and the registered office address is:

6735 I.H. 10 West, Suite 103	San Antonio	TX	78201
<i>Street Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

**Article 3—Governing Authority**

(Select and complete either A or B and provide the name and address of each governing person.)

☐ A. The limited liability company will have managers. The name and address of each initial manager are set forth below.

☒ B. The limited liability company will not have managers. The company will be governed by its members, and the name and address of each initial member are set forth below.

**GOVERNING PERSON 1**

NAME (Enter the name of either an individual or an organization, but not both.)

IF INDIVIDUAL

Fred		Ghavidel	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>

OR

IF ORGANIZATION

Organization Name

ADDRESS

6735 I.H. 10 West, Suite 103	San Antonio	TX	US	78201
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Country</i>	<i>Zip Code</i>

**RECEIVED**

FEB 13 2017

Secretary of State

<b>GOVERNING PERSON 2</b>				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
Larry		Grothues		
First Name	M.I.	Last Name	Suffix	
OR				
IF ORGANIZATION				
Organization Name				
ADDRESS				
6735 I.H. 10 West, Suite 103	San Antonio	TX	US	78201
Street or Mailing Address	City	State	Country	Zip Code

<b>GOVERNING PERSON 3</b>				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
N/A				
First Name	M.I.	Last Name	Suffix	
OR				
IF ORGANIZATION				
Organization Name				
ADDRESS				
Street or Mailing Address				
City	State	Country	Zip Code	

#### Article 4 – Purpose

The purpose for which the company is formed is for the transaction of any and all lawful purposes for which a limited liability company may be organized under the Texas Business Organizations Code.

#### Supplemental Provisions/Information

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

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## Organizer

The name and address of the organizer:

Daniel Kruger

Name

8118 Datapoint Drive

Street or Mailing Address

San Antonio

City

TX 78229

State Zip Code

### Effectiveness of Filing (Select either A, B, or C.)

- A. ☒ This document becomes effective when the document is filed by the secretary of state.
- B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: \_\_\_\_\_
- C. ☐ This document takes effect upon the occurrence of the future event or fact, other than the passage of time. The 90<sup>th</sup> day after the date of signing is: \_\_\_\_\_

The following event or fact will cause the document to take effect in the manner described below:

### Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: 02-10-17



Signature of organizer

Daniel Kruger

Printed or typed name of organizer