

**GREY SNOW MANAGEMENT SOLUTIONS, LLC  
OPERATING AGREEMENT**

**ARTICLE I – DEFINITIONS**

**Section 1.1 Definitions.** The following terms used in this Operating Agreement shall have all the following meanings (unless otherwise expressly provided herein):

(a) **“Board”** shall mean the Board of Directors of the Company established in Article VII.

(b) **“Capital Account”** as of any given date shall mean the Capital Contribution to the Company by Owner as adjusted up to the date in question pursuant to Article X of this Operating Agreement.

(c) **“Capital Contribution”** shall mean any contribution to the capital of the Company in cash or property by the Owner whenever made.

(d) **“Code”** shall mean the Internal Revenue Code of 1986 or corresponding provisions of subsequent superseding federal revenue laws.

(e) **“Company”** shall refer to GREY SNOW MANAGEMENT SOLUTIONS, LLC.

(f) **“Distributable Cash”** shall mean all cash, receipts and funds received by the Company from Company operations, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders; (ii) all cash expenditures incurred incident to the normal operation of the Company’s business; (iii) such cash reserves as the Chief Executive Officer, subject to approval of the Board, deems reasonably necessary to the proper operation of the Company’s business.

(g) **“Dividend Plan”** shall have the meaning set forth for such term in Section 8.3.

(h) **“Entity”** shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association.

(i) **“Executive Committee”** shall mean the duly elected body of the Tribe pursuant to Article IV, Section 2 of the Tribe’s Constitution with the authority to legislate and carry out the business of the Tribe.

(j) **“Fiscal Year”** shall mean the Company’s fiscal year, which shall be the calendar year.

(k) **“Initial Capital Contribution”** shall mean the initial contribution to the capital of the Company pursuant to this Operating Agreement.

(l) **“Interest”** shall mean the proportion that the Owner’s Units bears to the aggregate outstanding Units of the Company.

(m) **“Net Profits”** shall mean, for each Fiscal Year, the income and gains of the Company determined in accordance with accounting principles consistently applied from year to year employed under the accrual method of accounting and, if applicable, as reported, separately or in the aggregate, as appropriate, on the Company’s information tax return filed for federal income tax purposes, plus any income exempt from federal income tax under the Code.

(n) **“Net Losses”** shall mean, for each Fiscal Year, the losses and deductions of the Company determined in accordance with accounting principles consistently applied from year to year employed under the accrual method of accounting and, if applicable, as reported, separately or in the aggregate, as appropriate, on the Company’s information tax return filed for federal income tax purposes, plus any expenditures not deductible in computing its taxable income and not properly chargeable to Owner’s Capital Account under the Code.

(o) **“Operating Agreement”** shall mean this Operating Agreement as originally executed and as amended from time to time.

(p) **“Organization Expenses”** shall mean those expenses incurred in connection with the formation of the Company.

(q) **“Owner”** shall mean the Iowa Tribe of Kansas and Nebraska.

(r) **“Person”** shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such “Person” where the context so admits.

(s) **“Reservation”** shall mean all lands under the jurisdiction of the Tribe, including all lands within the boundaries of the Tribe’s reservation, individual tribal member allotments, whether located on or off the Tribe’s reservation, and all lands held in trust by the United States for the benefit of the Tribe.

(t) **“Reserves”** shall mean, with respect to any fiscal period, funds set aside or amounts allocated during such period to reserves which shall be maintained in amounts deemed sufficient by the Chief Executive Officer, subject to approval by the Board, for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company’s business.

(u) **“Treasury Regulations”** shall mean the Income Tax Regulations, including temporary regulations, promulgated under the Code, as amended from time to time.

(v) **“Tribal Court”** shall mean the courts of the Tribe’s judicial system as established by the Executive Committee pursuant to Article V, Section 1.h. of the Tribe’s Constitution.

(w) “**Tribal Limited Liability Company Ordinance**” shall mean the Iowa Tribe of Kansas and Nebraska Limited Liability Company Ordinance, as amended from time to time.

(x) “**Tribal Secretary**” shall mean the Secretary of the Executive Committee as provided by Article XI, Section 3 of the Tribe’s Constitution, or that individual’s designee under the Tribal Limited Liability Company Ordinance.

(y) “**Tribe**” shall mean the Iowa Tribe of Kansas and Nebraska.

(z) “**Units**” shall mean the capital units issued by the Company to the Owner, in exchange for contributions, which represent the Owner’s Interest in the Company.

## ARTICLE II – FORMATION OF COMPANY

**Section 2.1** **Formation.** On January 9, 2018, Timothy Rhodd, Chairman of the Iowa Tribe of Kansas and Nebraska Executive Committee, organized the Company under and pursuant to the Tribal Limited Liability Company Ordinance.

**Section 2.2** **Name.** The name of the Company is Grey Snow Management Solutions, LLC.

**Section 2.3** **Principal Office.** The Company shall be a resident of and shall maintain its corporate headquarters on the Tribe’s Reservation, but may conduct its business activities any place in or outside of the United States. The Company may have such other offices, either within or without the Tribe’s Reservation as the business of the Company may require from time to time.

**Section 2.4** **Registered Office and Registered Agent.** The Company’s registered office shall be located at 3345 B Thrasher Road, White Cloud, KS 66094, and the Company’s initial registered agent at such address shall be the Tribal Secretary.

**Section 2.5** **Term.** The term of the Company shall be perpetual from the date of filing of Articles of Organization with the Tribal Secretary, unless the Company is earlier dissolved in accordance with either the provisions of this Operating Agreement or the Tribal Limited Liability Company Ordinance.

**Section 2.6** **General Purpose.** The general purpose of the Company shall be to engage in any lawful business or businesses and to engage in all other activities necessary, customary, convenient or incident thereto.

## ARTICLE III – OWNER

The Company is wholly owned by the Iowa Tribe of Kansas and Nebraska as its sole Owner. The Owner shall be represented by and act through the Tribe’s Executive Committee pursuant to Iowa Tribe law.

## ARTICLE IV – PURPOSES OF THE COMPANY

The purposes of the Company shall be:

- (a) To generate profits to promote the growth and continuity of the Company and for distribution to Owner.
- (b) To create and stimulate the economy of the Tribe and to create employment opportunities for Tribal members.
- (c) To increase the economic well-being of the members of the Tribe in accordance with the economic development policies and plans of the Tribe as adopted by the Executive Committee.
- (d) To engage in any lawful business or other activities necessary, customary, convenient, or incident thereto for which limited liability companies may be organized under the Tribal Limited Liability Company Ordinance.

#### **ARTICLE V – PRIVILEGES AND IMMUNITIES**

Pursuant to Article 9, Section 1(C) of the Tribal Limited Liability Company Ordinance and Article VIII of the Company's Articles of Organization, the Company enjoys all of the rights, privileges and immunities enjoyed by the Tribe, including but not limited to, immunities from federal, state, and local taxes, regulation, and jurisdiction, to the same extent that the Tribe would have such rights, privileges, and immunities, if it engaged in the activities undertaken by the Company. The scope of such privileges and immunities is subject to the terms and provisions of Article IX of the Company's Articles of Organization and of Article VI of this Operating Agreement.

#### **ARTICLE VI – SOVEREIGN IMMUNITY**

**Section 6.1 Sovereign Immunity Conferred.** Pursuant to Article 9, Section 1(C) of the Tribal Limited Liability Company Ordinance and Article IX of the Company's Articles of Organization, the Company enjoys sovereign immunity from suit to the same extent that the Tribe would have such sovereign immunity if it engaged in the activities undertaken by the Company.

**Section 6.2 Limited Waivers.** The Company shall have the power to grant limited waivers of its immunity from suit and consent to be sued in the Tribal Court or another court of competent jurisdiction; provided, however, that

- (a) Any such waiver or consent to suit granted pursuant to the Company's Operating Agreement shall in no way extend to any action against the Tribe in its capacity as Owner or otherwise, nor shall it in any way be deemed a waiver of any of the rights, privileges and immunities of the Tribe;

(b) Any recovery against the Company shall be limited to the assets of the Company (or such portion of the Company's assets as further limited by the waiver or consent), and the Tribe shall not be liable for the payment or performance of any of the obligations of the Company, and no recourse shall be had against any assets or revenues of the Tribe in order to satisfy the obligations of the Company, including assets of the Tribe or Owner leased, loaned, or assigned to the Company for its use, without transfer of title;

(c) Any waiver of the Company's immunities granted pursuant to the Company's Articles of Organization shall be further limited or conditioned by the terms of such waiver;

(d) Any waiver may be granted only by (1) a resolution adopted by the Board for the specific purpose of granting a waiver, (2) the language of the waiver must be explicit, and (3) the waiver must be contained in a written contract or commercial document to which the Company is a party;

(e) Waivers of sovereign immunity may be granted only when necessary to secure a substantial advantage or benefit to the Company; and

(f) Waivers of sovereign immunity must be specific and limited as to duration, grantee, transaction, property or funds of the Company subject to the waiver, court or arbitration body having jurisdiction and applicable law.

The sovereign immunity of the Company shall not extend to actions against the Company by the Tribe.

**Section 6.3** **Limited Waiver for SBA 8(a) Program.** Pursuant to Article IX of the Company's Articles of Organization and as authorized by Article 9, Sections 1(C) and 1(G) of the Tribal Limited Liability Code, the Company hereby consents to sue and be sued in any of the United States Federal Courts, which are hereby designated to be among courts of competent jurisdiction, for all matters relating to the Small Business Administration's ("SBA's") programs including but not limited to, 8(a) program participation, loans, and contract performance. The authority provided in this Section 6.3 is not intended to, nor shall it be construed to, waive the immunity of the Company, the Tribe, or any agency thereof, for any other purposes not specifically mentioned herein. This waiver is granted solely for the purposes required by 13 CFR § 124.109, and it shall not be interpreted to grant any rights to parties other than those intended by such regulation. Further, any recovery under this limited waiver of sovereign immunity shall be limited to the assets of the Company. This limited waiver of sovereign immunity for the SBA 8(a) Program is not limited or precluded by other parts of this Article VI.

## ARTICLE VII – MANAGEMENT

### **Section 7.1** **Board of Directors.**

(a) The number of Directors shall initially consist of three (3) voting members, but the number of voting members may be increased or decreased, but in no event to less than three (3) voting members, at any time by resolution of the Iowa Tribe Executive Committee. The

Board of Directors shall also include one non-voting member appointed from the membership of the Tribe's Executive Committee. The Tribe's Executive Committee shall appoint all Directors.

(b) Each Director shall possess the level of business experience and expertise as determined by the Tribe's Executive Committee to be necessary to carry out the duties of a Director and to contribute to the ability of the Company to achieve its purposes. No person may serve as a Director who has been convicted of a felony within five (5) years of his or her appointment. For this purpose, a felony shall mean a crime punishable by at least one (1) year in jail, regardless of whether the person actually served a full year in jail. At all times, a majority of Directors must be tribal members of the Iowa Tribe of Kansas and Nebraska. In addition, Directors must possess any other qualifications prescribed by the Tribe's Executive Committee at the time of appointment.

(c) The initial terms of the voting Directors shall be staggered so that one Director is in office for one year, one Director is in office for two years, and one Director is in office for three years. After the initial terms, the general terms of office for their positions shall be three years. There is no limit to the number of terms an individual may serve. The non-voting member of the Board shall serve until replaced by the Tribe's Executive Committee, with or without cause; provided, that the term of the non-voting member shall automatically terminate in the event such person no longer serves on the Tribe's Executive Committee.

(d) The business and affairs of the Company shall be managed by its Board. The Iowa Tribe Executive Committee shall have no authority to direct the day-to-day business affairs of the Company except through its status as the representative of the Owner of the Company and as provided in the Tribal Limited Liability Company Ordinance, the Company's Articles of Organization, and this Operating Agreement. The Directors may adopt such rules and regulations for the conduct of their meetings and the management of the Company as they may deem proper, as long as such rules or regulations are not inconsistent with the Tribal Limited Liability Code, the Company's Articles of Organization, this Operating Agreement, and applicable law. A Director's duties shall be performed in good faith, in a manner the Director believes to be in or not opposed to the best interests of the Company, and with such care as an ordinarily prudent person would use under similar circumstances in a like position. In performing such duties, a Director shall be entitled to rely on factual information, professional opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- (1) one or more officers or employees of the Company whom such Director reasonably believes to be reliable and competent in the matters presented;
- (2) legal counsel, public accountants or other persons as to matters which such Director reasonably believes to be within such person's professional or expert competence; or
- (3) a committee of the Board upon which such Director does not serve, duly designated by the Board, as to matters within its designated authority, which committee

such Director reasonably believes to merit confidence;

provided, that a Director shall not be considered to be acting in good faith if such Director has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

**(e) Conflict of Interest.**

(1) No Director shall participate in making a decision before the Board of Directors or vote on any matter before the Board of Directors, if the Director has a conflict of interest. Any Director who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state, or have the President of the Board so state, the nature of such disqualification in an open Board meeting. When no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Director affected, be decided by the other Directors. A Director who is disqualified by reason of a conflict of interest in any matter shall not remain in his or her seat during the debate and may not vote on such matter, but shall request and be given the permission of the President to step down from the Board table and leave the chamber or room in which the meeting is being conducted, provided however, if during the debate on the issue for which a Director declared a conflict, any remarks are made by any person against the Director or his/her family, the Chairperson shall invite the Director back into the meeting Chamber or room, to tell him/her of the remarks made and recognize and allow the Director to respond to the remarks. A Director stating such disqualification shall be counted as a part of a quorum and shall be considered an abstention for the purpose of determining the outcome of any vote on such matter.

(2) For purposes of this Section 7.1(e), a Director shall have a conflict of interest when a decision of the Board will have a direct effect on:

(A) The Director's natural or adopted mother, father, step-father, step-mother, brother, sister, step-brother, step-sister, children, the Director's spouse or live-in partner;

(B) Any business in which the Director has a direct or indirect investment;

(C) Any real property in which the Director owns an interest or right of possession;

(D) Any person who has been a source of income to the Director of \$250.00 or more within the 12 months immediately preceding consideration of the issue that will result in a decision; or

(E) Any other interest brought to the Board's attention which the Board by majority vote determines is a conflict of interest.

Notwithstanding any provision in Section 7.1(e) to the contrary, nothing in this Section 7.1(e) shall prohibit any Director from voting to fill any office of the Board or for voting for or against the removal of any Director.

(f) A Director shall not be personally liable to the Company or to the Owner of the Corporation for monetary damages for breach of fiduciary duty as a Director unless:

(1) the Director has breached or failed to perform the duties of the Director's office; and

(2) the breach or failure to perform constitutes willful misconduct or recklessness. As used herein the term "willful misconduct" shall mean a knowing and intentional violation of any applicable law, the Company's Articles of Organization, this Operating Agreement or any rules or regulations approved by the Board pursuant to this Operating Agreement, and the term "recklessness" shall mean a wanton disregard for any applicable law, the Company's Articles of Organization, this Operating Agreement or any rules or regulations approved by the Board pursuant to this Operating Agreement.

(g) A regular meeting of the Board of Directors shall be held no less than monthly. The Board of Directors shall provide, by resolution, for the holding of regular meetings at specified times and places, without notice other than such resolution. The Board of Directors may make temporary changes to regular meeting times and places without resolution by unanimous consent.

(h) Special meetings of the Board may be called upon the request of the President or of any two Directors. Notice of special meetings shall be given by service upon each Director orally at a preceding meeting, or in writing by a mailing to the last known post office address of the Director, or any other means at least as effective and expeditious as mailing, including by email to an email address provided by the Director to the Secretary for such purpose, in each case at least 48 hours before such special meeting. Notice shall specify the time and place of the special meeting and the business to be brought before the meeting. No business other than that specified in such notice shall be transacted at any special meeting. At any meeting, regular or special, at which all members of the Board shall be present, although held without notice successfully given to all Directors, any business may be transacted which might have been transacted if the meeting had been duly called with notice to all Directors. Attendance at a meeting is a waiver of any notice requirements.

(i) At a meeting of the Board, a quorum shall consist of the greater of (i) two voting Directors, or (ii) a majority of voting Directors then in office. The President shall count towards establishment of a quorum. In the event of a quorum not being present, a lesser number may adjourn the meeting from time to time without further notice.

(j) All meetings of the Board, including those matters conducted in executive session, shall be open to the Tribe's Executive Committee. All regular meetings of the Board, except those matters conducted in executive session, shall be open to all members of the Tribe.

(k) At any meeting of the Board, each voting member of the Board shall have one vote. The President may vote only in the event such vote would affect the outcome of the vote. A majority of a quorum of the Board shall carry any issue.

(l) Except as otherwise restricted by rules and regulations duly adopted by the Board, members of the Board or any committee designated thereby may participate in a meeting of the Board or committee by means of a video or audio conference call by which all persons participating in the meeting can hear each other at the same time and each participant is able to speak to all the others participating; participation by such means shall constitute presence in person at a meeting. Except as otherwise restricted in the Bylaws, any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed in the affirmative by all of the voting Directors, and such consent shall have the same effect as a unanimous vote.

(m) A Director who is present at a meeting of the Board at which action on any Company matter is taken shall be presumed to have assented to the action taken, unless such dissent shall be entered in the minutes of the meeting or unless the Director shall file a written dissent to such action with the person acting as the secretary of the meeting before adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action. Abstention from voting shall only be allowed for reasons of bona fide conflict of interest, the basis of which shall be stated in the minutes.

(n) Directors shall receive such expense reimbursement, salary or compensation as may be determined by the Executive Committee; provided, that any reductions of such amounts shall only operate prospectively. Such amounts shall be paid from assets of the Company.

(o) The rules for the resignation, removal or retirement of any Director shall be as set forth in rules and regulations duly adopted by the Board, provided that:

(1) Any one or more Directors may be removed with cause at any time by the Iowa Tribe Executive Committee acting as the representative of the owner.

(2) A Director shall be informed in writing of the specific grounds for removal and shall be given a reasonable opportunity to respond in person prior to a decision regarding removal.

(3) Where duly adopted rules and regulations of the Board establish rules for removal of a Director by the remaining Directors of the Board, such removal decision shall be appealable to the Tribe's Executive Committee acting as representative of the Owner within seven days of such removal decision. The Tribe's Executive Committee shall hear and decide any timely appeal within seven days and any decision made by the Tribe's Executive Committee regarding such appeal shall be final.

For the avoidance of doubt, cause for removal of a Director by the Tribe's Executive Committee shall include but not be limited to (i) the unexcused absence of such Director from two

consecutive duly noticed and called meetings of the Board, or (ii) the continued presence of such Director shall, in the sole judgment and discretion of the Tribe's Executive Committee, be deemed an impediment to the Company obtaining and maintaining certification under the Small Business Administration's 8(a) Program.

(p) Whenever any vacancy shall occur on the Board by death, resignation, removal, expiration of term or otherwise, the same shall, as applicable, be filled by appointment by the Tribe's Executive Committee within thirty (30) days after the seat became vacant.

**Section 7.2 Powers.** Without limiting the provisions of Section 7.1 or any other powers described in this Operating Agreement, the Board shall have power and authority:

(a) to cause the Company to conduct its business or carry on its operations within or without the boundaries of the Reservation;

(b) to cause the Company to purchase, take by gift, bequest, lease or otherwise and to own, hold, manage, operate, use and otherwise deal in and with real or personal property of every description, or any interest therein, wherever situated, including the power to purchase land and issue in exchange interests in Company property;

(c) to cause the Company to sell, convey, mortgage, pledge, lease as lessor or lessee, exchange, transfer or otherwise dispose of all or any part of its corporate property or assets in accordance with Tribal law, the Company's Articles of Organization and this Operating Agreement; provided, that the Company shall have no authority to sell, mortgage, or lease as lessor any property of the Tribe without the express consent of the Tribe's Executive Committee given in the specific instance;

(d) to create subdivisions or other subsidiary entities of the Company for the purpose of legally segregating the assets and liabilities of discrete business endeavors of the Company regardless of common directorship; provided that each such subdivision or subsidiary entity shall to the extent permitted by Tribal and federal law have the same immunities as the Company and the Tribe, including but not limited to all immunities from taxation and sovereign immunity from unconsented suit;

(e) to cause the Company to enter into and make contracts of every kind and nature with any Person, Entity, municipality, nation, Indian tribe, state, federal or other body politic, without the approval of the Tribe's Executive Committee, except when (i) such approval is otherwise required by this Operating Agreement or by applicable law; (ii) the term of the contract may reasonably be expected to exceed a duration of time established by resolution of the Tribe's Executive Committee; and/or (iii) the amount of compensation to be paid by the Company under the contract may reasonably be expected to exceed an amount established by resolution of the Tribe's Executive Committee. In the event that any of the foregoing occur, the contract must be approved in advance by resolution of the Tribe's Executive Committee. Where the Tribe's Executive Committee has not passed a resolution establishing the term described in clause (ii) above, such term shall be two (2) years. Where the Tribe's Executive Committee has not passed a resolution established the compensation described in clause (iii) of this paragraph,

such compensation shall be Fifty Thousand Dollars (\$50,000.00) in any fiscal year of the Corporation. For the avoidance of doubt, the Tribe's Executive Committee may amend the resolutions described in clause (ii) and (iii) above from time to time;

(f) to cause the Company to borrow money from banks, other lending institutions, the Owner, or affiliates of the Owner on such terms as they deem appropriate, and in connection therewith, to mortgage, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums without the approval of the Tribe's Executive Committee, except when: (i) such approval is otherwise required by this Operating Agreement or by applicable law; or (ii) the amount of debt exceeds Fifty Thousand Dollars (\$50,000.00), or some other amount established by resolution of the Tribe's Executive Committee, as may be amended from time to time, and has not already been approved by the Tribe's Executive Committee as part of a budget approval process for the Company. In the event either of the foregoing occur, the transaction must be approved by the Tribe's Executive Committee prior to the Company incurring the debt;

(g) to cause the Company to apply for, obtain, register, purchase, lease or otherwise acquire, own, hold, use, operate and introduce, and to sell, assign or otherwise dispose of any trademark, trade name, patent, invention, improvements and processes used in connection with or secured under letters patent, and to use, exercise, develop, grant and give licenses in respect thereto;

(h) to cause the Company to distribute the net revenues of the Company to: (i) defray Company obligations including, but not limited to, Tribal taxes; (ii) compensate for management fees and other contractual obligations satisfied through third party participation in net revenues; (iii) establish and invest in one or more operating and capital reserve funds; (iv) promote and diversify Tribal economic development; (v) donate to charitable organizations, provided such donations are approved by the Tribe's Executive Committee; (vi) help fund operations of local government agencies when necessary to secure substantial advantage for the Tribe; (vii) generate jobs for Tribal members; (viii) develop Tribal self-sufficiency; (ix) be used in accordance with a specific purpose approved by Tribal Council resolution; (x) make dividend payments to the Tribe, as Owner of the Company, for purposes funding government operations, providing for the general welfare of the Tribe and its members and for other purposes that may be established by the Tribe's Executive Committee from time to time; and (xi) facilitate or promote any of the foregoing; provide that, for any distribution under this paragraph, the funds must be used with the intent that such use will ultimately benefit the Tribe;

(i) to cause the Company to employ or appoint employees and agents of the Company and define their duties and fix their compensation; provided, that the Tribe's Executive Committee may require the Board submit a budget for its approval prior thereto;

(j) to cause the Company to lend money for its Company purposes, invest and reinvest its funds and take and hold real or personal property as security for the payment of funds so lent and invested;

(k) to adopt and amend rules and regulations for the regulation of the internal affairs of the Board and the Company;

(l) to cause the Company to pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other incentive or employee benefit plans for any or all of its directors, officers and employees;

(m) to cause the Company to obtain a certificate of authority to transact business as a foreign limited liability company in any of the United States or within the jurisdiction of any other federally recognized Indian tribe and to comply with applicable state or tribal law governing foreign limited liability companies;

(n) to cause the Company to purchase liability and other insurance to protect the Company's property and business as well as the Company's directors, officers and employees;

(o) to cause the Company to invest any Company funds temporarily (by way of example but not limitation) in time deposits, short-term governmental obligations, commercial paper or other investments and otherwise conduct or direct the Company's banking activities;

(p) to execute on behalf of the Company all instruments and documents, including, without limitation, checks, drafts, notes and other negotiable instruments, mortgages or deeds of trust, security agreements, financing statements, documents providing for the acquisition, mortgage or disposition of the Company's property, assignments, bills of sale, leases, partnership agreements, and any other instruments or documents necessary, in the opinion of the Board, to the business of the Company;

(q) to cause the Company to employ accountants, legal counsel, managing agents or other experts to perform services for the Company and to compensate them from Company funds;

(r) to do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business, and not inconsistent with applicable law, the Company's Articles of Organization or this Operating Agreement; and

(s) to waive the sovereign immunity of the Company provided that it is done within the procedures described within the Articles or Organization and Operating Agreement for the Company, and the Tribal Limited Liability Company Ordinance.

Unless authorized to do so by this Operating Agreement, no individual Board member, agent or employee of either Owner or the Company shall have any power or authority to bind the Company in any way, to pledge its credit, to waive its sovereign immunity or to render it liable for any purpose.

### **Section 7.3 Limitations on Powers.**

(a) The Company shall have no powers:

- (1) to enter into any agreement of any kind on behalf of the Tribe, either expressly or by implication, other than in the circumstances and to the extent expressly agreed to in writing by resolution of the Tribe's Executive Committee;
- (2) to pledge the credit of the Tribe;
- (3) to dispose of, pledge, or otherwise encumber real or personal property of the Tribe other than the Company's interest therein;
- (4) to waive any right, privilege or immunity of, or release any obligations owed to, the Tribe; or
- (5) to enter into any sublease or other encumbrance or instrument respecting lands leased to the Company by the Tribe without the express written approval of the Tribe's Executive Committee.

(b) Nothing in this Operating Agreement, and no action taken by the Company pursuant to this Operating Agreement, shall be construed as permitting, recognizing, or granting any state or any political subdivision thereof any regulatory, taxing or any other jurisdiction over the property or activities of the Tribe, the Company or its directors, officers or employees located within the boundaries of "Indian Country" for the Iowa Tribe of Kansas and Nebraska, including but not limited to the Reservation of the Tribe.

**Section 7.4 Officers.** The Board shall appoint officers of the Company, which may include, but shall not be limited to: (1) president; (2) one or more vice presidents; (3) secretary; and (4) treasurer. An individual may simultaneously hold more than one of the offices of vice president, secretary, or treasurer. The Board shall delegate the day-to-day management responsibilities to a Chief Executive Officer and other such officers, as may be determined by the Board from time to time, and such officers shall have the authority to contract for, negotiate on behalf of and otherwise represent the interests of the Company, under direction of the Board. Unless otherwise specified by the Board, if the title is one commonly used for officers of a business corporation, the assignment of such title shall constitute the delegation to such Person of the authority and duties that are normally associated with that office, subject to any specific limitation or delegation of authority and duties made by the Board, including pursuant to rules and regulations duly adopted by the Board pursuant to this Operating Agreement. The compensation of the Chief Executive Officer shall be fixed from time to time by the Board, subject to approval by the Tribe's Executive Committee. The Chief Executive Officer, subject to any limitations imposed by the Board, may fix the salaries of other subordinate officers and employees of the Company. Such compensation arrangements shall be subject to any applicable approval requirements set forth in Section 7.3(e). Before the Company employs the Chief Executive Officer, the Board shall provide its recommendation to the Tribe's Executive Committee and obtain the prior approval of the Tribe's Executive Committee.

**Section 7.4 Reports and Records.**

(a) The Chief Executive Officer shall present to the Board regular annual, quarterly and monthly reports and plans, including the following: (1) an annual operation plan, including budgets and an annual funding request; (2) annual audit statements; (3) an annual report describing progress against Company goals in the past year; (4) quarterly company balance sheets and profit and loss statements; and (5) such other reports as reasonably requested by the Board or the Owner, including but not limited to any reports and plans required by the Board for inclusion in budgets, reports and plans which it submits to the Tribe's Executive Committee from time to time.

(b) The financial and operating records of the Company shall at all reasonable times be open to inspection by the Tribe's Executive Committee and its authorized agents, on behalf of the Owner.

(c) Beginning in any year in which the Company shows a profit or a loss:

(1) No less frequently than monthly, or when requested by the Tribe's Executive Committee, the Board shall report, in person and/or in writing, on the financial and operating condition of the Company in a manner acceptable to the Tribe's Executive Committee.

(2) A summary of the financial and operating status of the Company shall be presented by the Board or its designee at each meeting of the General Council.

(3) The Board shall prepare and submit to the Tribe's Executive Committee for its approval a budget in accordance with the standards adopted by the Tribe's Executive Committee for that purpose.

(4) Annually, the Company shall submit to the Tribe's Executive Committee audited financial statements showing the status of the Company for the Company's preceding fiscal year.

(d) Any information pertaining to the Company's business activities may be kept from disclosure in the event it constitutes confidential or privileged commercial information or its disclosure would harm the Company or the Tribe, subject to the direction of the Tribe's Executive Committee.

## **ARTICLE VIII – RIGHTS AND OBLIGATIONS OF THE OWNER**

**Section 8.1** **Limitation of Liability.** The Owner shall not be liable for any debts or losses of Company beyond its respective Capital Contribution, except as provided in Section 11.2 herein.

**Section 8.2** **Company Books.** The Board shall maintain and preserve at the principal office of Company relevant Company documents including, but not limited to (a) a current list of the full name and last known business address of the Owner and each Board member, (b) a copy of the Company's Articles of Organization and all articles of amendment thereto, (c) copies of the Company's tribal, fed

eral, state and local income tax returns and reports, if any, for the three most recent years, and (d) copies of the Company's initial Operating Agreement and any amendments thereto and of any financial statements for the three most recent years. Upon reasonable request, the Tribe's Executive Committee, on behalf of the Owner, shall have the right, during ordinary business hours, to inspect and copy such Company documents at Tribe's expense.

**Section 8.3** **Investment and Return of Capital.** Owner, as sole Owner of Company, shall allocate such funds as to allow Company to fulfill the long term goals of the Tribe and the Company. All Net Profits will be distributed in accordance with a dividend plan (the "Dividend Plan") approved by the Board and by the Tribe's Executive Committee on behalf of Tribe, as sole Owner.

**Section 8.4** **Withdrawal of the Owner.** The Owner does not have the power or right to withdraw from the Company.

**Section 8.5** **Actions Requiring Owner Approval.** The Company shall not take any of the actions described below without the affirmative vote of the Tribe's Executive Committee on behalf of the Owner:

- (a) The sale, exchange or other disposition (other than mortgage, pledge or other grant as security interest) of all or substantially all the assets of the Company;
- (b) The merger of the Company with another Entity;
- (c) The voluntary dissolution of the Company; or
- (d) The amendment of the Articles of Organization or this Operating Agreement subject, however, to Section 15.4 hereof.

The Tribe's Executive Committee, on behalf of the Owner, shall also have the right of prior approval of the implementation plans and annual operating plans of the Company.

## **ARTICLE IX -- MEETINGS OF THE OWNER**

### **Section 9.1** **Meetings.**

(a) An annual meeting of the Owner shall be held at the Company's principal office, or at such other place designated by the Owner, on the first Tuesday of May each year, or such other date as shall be designated by the Board, for purpose of approving the annual plan, receiving financial reports, and for the transaction of such other business as may properly come before the meeting.

(b) Special meetings of the Owner, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Owner.

(c) At all meetings of the Owner relative to the Company, the members of the Tribe's Executive Committee shall, where applicable, act in their capacity as the representatives of the sole Owner of the Company. The decision of the majority of the members of the Iowa Tribe Executive Committee, or such greater number if required by Iowa Tribe law, voting at any duly called and noticed meeting at which a quorum, as defined by the Tribe's Constitution, is present, shall be the decision of the Tribe's Executive Committee in exercise of its authority as representative of the sole Owner of the Company.

**Section 9.2 Place of Meetings.** The Owner may designate any place, either within or outside the Tribe's Reservation, as the place of meeting for any meeting of the Owner. If no designation is made, the place of meeting shall be the principal office of the Company.

## **ARTICLE X – CONTRIBUTIONS TO THE COMPANY; CAPITAL UNITS; CAPITAL ACCOUNTS**

**Section 10.1 Capital Contributions.** The Owner shall contribute such amount as is set forth in Schedule A hereto as its Capital Contribution. No subsequent Capital Contributions shall be required of the Owner.

**Section 10.2 Capital Units.** The Owner's Interest in the capital of the Company shall be represented by Units of membership interests. The number of Units authorized is one (1). Such Unit is hereby issued to the Owner and shall be voted by Owner under the direction of the Board. The Tribe, as sole Owner, shall receive 100% of Units.

### **Section 10.3 Capital Accounts.**

(a) A separate Capital Account will be maintained for the Owner. The Owner's Capital Account will be increased by (1) the amount of money contributed by such Owner to the Company; (2) the fair market value of property contributed by such Owner to the Company (net of liabilities secured by such contributed property that the Company is considered to assume to take subject to under Section 752 of the Code); and (3) the amount of Net Profits allocated to such Owner. The Owner's Capital Account will be decreased by (1) the amount of money distributed to such Owner by the Company; (2) the fair market value of property distributed to such Owner by the Company (net of liabilities secured by such distributed property that such Owner is considered to assume or take subject to under Section 752 of the Code); and (3) the amount of Net Losses allocated to such Owner.

(b) In the event of a permitted sale or exchange of an Interest in the Company, the Capital Account of the transferor shall become the Capital Account of the transferee to the extent it relates to the transferred Interest.

(c) The manner in which Capital Accounts are to be maintained pursuant to this Section 10.3 is intended, and shall be construed so as, to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder, or in the event there exists any inconsistency, the Code and Treasury Regulations shall control.

(d) Upon liquidation of the Company (or the Owner's Interest), liquidating distributions will be made in accordance with the positive Capital Account balance of the Owner, as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs. Liquidation proceeds will be paid within sixty (60) days of the end of the taxable year (or, if later, within 90 days after the date of the liquidation).

**Section 10.4 No Demand of Owner Capital.** The Owner shall not be entitled to demand or receive from the Company the liquidation of its Interest in the Company until Company is dissolved in accordance with the provisions hereof or other applicable provisions of the Tribal Limited Liability Company Ordinance.

## ARTICLE XI – ALLOCATIONS AND INCOME TAX

### **Section 11.1 Allocations of Profits and Losses from Operations.**

(a) Except as may be required by Section 704(c) of the Code and the Treasury Regulations, the Net Profits and Net Losses of the Company for each Fiscal Year shall be allocated to the Owner in proportion to its Interests in the Company. Any credit available for income tax purposes shall be allocated to the Owner in like fashion.

(b) Notwithstanding paragraph (a) above, no loss shall be allocated to the Owner if such allocation would cause the Owner's Capital Account to become negative or to increase the negative balance thereof. To the extent the Owner shall have a negative Capital Account balance, there shall be a qualified income offset, as set forth in Treasury Regulation 1.704-1(b)(2)(ii)(d).

**Section 11.2 Distributions.** All distributions of cash or other property shall be made to Owner, on the record date of such distribution. Except as provided in Section 11.3, all distributions of Distributable Cash and property shall be made in such amount and at such times as determined by the Board, in accordance with the Dividend Plan. All amounts withheld pursuant to the Code or any applicable provisions of Tribal tax law with respect to any payment or distribution to the Owner from the Company shall be treated as amounts distributed to the relevant Owner pursuant to this Section 11.2.

**Section 11.3 Limitation Upon Distributions.** No distribution shall be declared and paid if, after the distribution is made: (1) the Company would be unable to pay its debts as they become due in the usual course of business, or (2) the Company's total assets would be less than the sum of its total liabilities, or (3) the Company would be in violation of its Dividend Plan.

**Section 11.4 Accounting Principles.** The profits and losses of the Company shall be determined in accordance with accounting principles applied on a consistent basis under the accrual method of accounting.

**Section 11.5 Interest on and Return of Capital Contributions.** The Owner shall not be entitled to interest on its Capital Contribution or to return of its Capital Contribution, except as otherwise specifically provided for herein.

**Section 11.6 Loans to Company.** Nothing in this Operating Agreement shall prevent the Owner from making secured or unsecured loans to the Company by agreement with the Company.

**Section 11.7 Returns and Other Elections.** The Owner shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom, shall be furnished to the Owner within a reasonable time after the end of the Company's fiscal year.

**Section 11.8 Tax Matters Member.** The Owner is hereby designated the Tax Matters Member of the Company for purposes of Chapter 63 of the Code and the Treasury Regulations promulgated thereunder. All elections to be made by the Company under federal, state or Tribal tax laws shall be made by and in the discretion of the Owner, under the direction of the Board.

## ARTICLE XII – TRANSFERABILITY

**Section 12.1 Assignment of Interest.** No membership Interest in the Company may be assigned, in whole or in part, without the express approval of Owner, as set forth in duly adopted resolution of the Tribe's Executive Committee. An assignment does not entitle the assignee to participate in the management and affairs of the Company or to become or to exercise any rights of an Owner. Such an assignment shall only entitle the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. The pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the Interest of the Owner shall not cause the Owner to cease to be the Owner and not deprive the Owner of the power to exercise any rights or powers as Owner.

**Section 12.2 Right of Assignee to Become an Owner.** An assignee of an Interest may not become a member or owner of the Company.

## ARTICLE XIII – ADDITIONAL AND SUBSTITUTE OWNERS

**Section 13.1 Admission of New Owners.** The Company shall not allow any additional new members or owners.

## ARTICLE XIV – DISSOLUTION AND TERMINATION

**Section 14.1 Dissolution.** The Company shall be dissolved upon the occurrence of any of the following events:

- (a) When the period fixed for the duration of the Company shall expire;
- (b) Upon affirmative vote of the Owner; or

(c) Upon the withdrawal, expulsion, bankruptcy or dissolution of the Owner or occurrence of any other event, except assignment of membership Interest voluntarily or by operation of law, that terminates the continued membership of the Owner in the Company.

**Section 14.2** **Distribution of Assets Upon Dissolution.** In settling accounts after dissolution, the liabilities of the Company shall be entitled to payment in the following order:

(a) To those creditors, in the order of priority as provided by law, except to the Owner of the Company on account of its Capital Contribution; and

(b) To the Owner with respect to its Capital Account in accordance with Section 10.3(d).

**Section 14.3** **Articles of Dissolution.** When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefore and all of the remaining property and assets have been distributed to the Owner, articles of dissolution shall be executed and filed with the Tribal Secretary. Thereafter, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Tribal Limited Liability Company Ordinance. The Board shall thereafter be trustee of the Owner and the creditors of the Company and as such shall have authority to distribute any Company property discovered after dissolution, convey real estate and take such other action as may be necessary on behalf of and in the name of the Company.

**Section 14.4** **Winding Up.** Except as provided by law, upon dissolution, the Owner shall look solely to the assets of the Company for the return of its Capital Contribution. The winding up of the affairs of the Company and the distribution of its assets shall be conducted exclusively by the Board, who are hereby authorized to take all actions necessary to accomplish such distribution, including without limitation, selling any Company assets the Board deems necessary or appropriate to sell.

## ARTICLE XV – MISCELLANEOUS PROVISIONS

**Section 15.1** **Notices.** Any notice, demand, or communication required or permitted to be given by any provision of this Operating Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the party or to an executive officer of the party to whom the same is directed or, if sent by registered or certified mail, postage and charges prepaid, addressed to the Owner's and/or Company's address as it appears in the Company's records, as appropriate. Except as otherwise provided herein, any notice shall be deemed to be given three business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid.

**Section 15.2** **Books of Account and Records.** Proper and complete records and books of account shall be kept or shall be caused to be kept by the Board. The Board shall enter, or cause to be entered, into such records and books of account all transaction and other matters relating to the Company's business fully and accurately and in such detail and completeness as is customary

and usual for businesses of the type engaged in by the Company. Such books and records shall be maintained in accordance with generally accepted accounting principles as provided in Section 11.4. The books and records shall at all times be maintained at the principal executive office of the Company and shall be open to the reasonable inspection and examination of the Owner or its duly authorized representatives during reasonable business hours. The Board shall also provide, or cause to be provided, to Owner:

(a) copies of any periodic financial statements (including monthly or quarterly balance sheets, profit and loss statements, and cash flow statement) as may be prepared in the ordinary course of business, promptly after such statements are furnished to the Company's management;

(b) a full report of the business activities of the Company within 120 days after the close of each fiscal year; and

(c) a proposed annual operating plan for the following fiscal year, including any proposed funding from Owner or anticipated distributions to Owner.

**Section 15.3 Application of Tribal Law.** This Operating Agreement and the application of interpretation hereof shall be governed exclusively by its terms and by the laws of the Tribe, and specifically the Tribal Limited Liability Company Ordinance.

**Section 15.4 Amendments.** Any amendment to this Operating Agreement shall become effective at such time as it has been approved by the Tribe's Executive Committee acting on behalf of the Owner.

**Section 15.5 Execution of Additional Instruments.** The Owner hereby agrees to execute such other and further statements of interest and holding, designations, powers of attorney and other instruments necessary to comply with any applicable laws, rules or regulations.

**Section 15.6 Construction.** Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders and vice versa.

**Section 15.7 Headings.** The headings in this Operating Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

**Section 15.8 Waivers.** The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Operating Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of any original violation.

**Section 15.9 Rights and Remedies Cumulative.** The rights and remedies provided by this Operating Agreement are cumulative and the use of any one right or remedy by any party shall

not preclude or waive the right to use any or all other remedies. Such rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

**Section 15.10 Severability.** If any provision of the Operating Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Operating Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

**Section 15.11 Heirs, Successors and Assigns.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the Owner and, to the extent permitted by this Operating Agreement, its respective heirs, legal representatives, successors and assigns.

**Section 15.12 Creditors.** None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company.

## SCHEDULE A

As of January 9, 2018, the following is a list of all Owners of the Company, their initial capital contributions and their percentage Interests.

<u>Owner</u>	<u>Capital Contribution</u>	<u>Interest</u>
Iowa Tribe of Kansas and Nebraska	\$150,000.00	100%

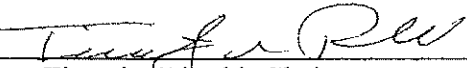
**CERTIFICATE OF FORMATION**

This Grey Snow Management Solutions, LLC Operating Agreement is entered into by the Iowa Tribe of Kansas and Nebraska as sole Owner of the Company and shall become effective as of the date of Company's formation. It is Owner's express intention to create a limited liability company in accordance with applicable law, as currently written or subsequently amended or redrafted.

The undersigned hereby agrees, acknowledges and certifies that the foregoing Operating Agreement, with Schedule A, constitutes the Operating Agreement of Grey Snow Management Solutions, LLC adopted and approved by the Executive Committee of the Iowa Tribe of Kansas and Nebraska as of January 9, 2018.

OWNER:

Iowa Tribe of Kansas and Nebraska

By:   
\_\_\_\_\_  
Timothy Rhodd, Chairman  
3345 B Thrasher Road  
White Cloud, KS 66094