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ARTICLES OF ORGANIZATION
OF
[NAME OF COMPANY], L3C
A [STATE]¹ LOW-PROFIT LIMITED LIABILITY COMPANY (L3C)

1. **NAME.** The name of the low-profit limited liability company is:
[NAME OF L3C], L3C (hereinafter the “Company”).
2. **DESIGNATED OFFICE.**² The address of the Company’s initial designated office is:
[Street Address of Office]
[City, State, Zip Code of Office]
3. **REGISTERED AGENT.** The name, street address, and county of the Company’s initial registered agent is:
[Name of Registered Agent]
[Street Address of Registered Agent]
[City, State, Zip Code of Registered Agent]
[County of Registered Agent]
4. **MANAGEMENT.** The Company shall be managed by one or more managers.³
5. **PURPOSE.**⁴ The purpose of the Company is to engage in the following activities:

*The following individuals contributed to the preparation of this document: Cass Brewer, Allen Bromberger, Steven Chiodini, Sandy Davies, Ed Hwang, Marc Lane, Stephen Loyd, Elizabeth Minnigh, Brian Murphy, Dana Brakman Reiser, Richard Schmalbeck, John Tyler, Robert Wexler, and Arthur Wood. Cass Brewer was the principal draftsman and reporter.

¹ These model Articles have been drafted to comply with Vermont law.

² The Vermont L3C statute requires that the Articles set forth the address of the “initial designated office.” North Carolina requires the Articles to set forth a “principal office.” Michigan, Wyoming, Utah, Illinois, Maine, and Louisiana L3C statutes make no mention of the Articles requiring a designated or principal office.

³ These model Articles assume a manager-managed LLC. One might consider including here, or in another section, the right of private foundation members of the L3C to appoint a manager to represent their interests. Typically, however, such a right is relegated to the Operating Agreement.

⁴ Although it may be permissible under some states’ L3C statutes to provide a very generic statement of purpose in an L3C’s Articles—e.g., “a charitable or educational purpose within the meaning of I.R.C. § 170(c)(2)(B)”--the authors do not recommend such an approach. Instead, the authors recommend that the charitable or educational purpose of the L3C be stated with reasonable precision in the Articles (and in the Operating Agreement). For example: “The primary purposes of the Company are: (a) to enhance social welfare, support community improvement, eliminate prejudice and discrimination, and promote economic self-sufficiency by serving, or providing investment capital for, low-income communities or low-income persons through making investments in portfolio companies, including providing technical assistance and training, that meet the criteria for “program

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[Generally and briefly describe Company purpose(s)]

6. L3C REQUIREMENTS. Notwithstanding anything to the contrary in Article 5 above or elsewhere in these Articles of Organization, the Company shall at all times be organized and operated in a manner that satisfies the requirements of Section ___⁵ of the [STATE] Limited Liability Company Act (the “Act”), including but not limited to the following requirements:
 - a. The Company will significantly further the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as amended (the “Code”).⁶
 - b. The Company would not have been formed but for the relationship between the Company and the accomplishment of the purposes set forth in Article 5 above, consistent with the restrictions contained in this Article 6.⁷
 - c. No significant purpose of the Company is the production of income or the appreciation of property;^{8,9} provided, however, that the fact that the Company produces significant

related investments” as defined in Section 4944(c) of the Code and the regulations promulgated thereunder. In furtherance of these purposes, to the extent consistent with the foregoing, the Company may engage in (1) any other business or activity that now or hereafter may be necessary, incidental, proper, advisable, or convenient to accomplish the foregoing purposes (including obtaining financing), and (2) any other lawful activity permitted to be undertaken by a low-profit limited liability company under the [State Limited Liability Company Act (the “Act”)] that is consistent with the foregoing purposes.” This approach is recommended to prohibit an L3C from varying from its essential purpose without the consent of its members, especially private foundations that have a very specific charitable or educational mission.

⁵ For example, for Vermont, the appropriate section is “Section 3005(a) of the LLC Act.”

⁶ This provision is derived from the Vermont L3C statute, 11 V.S.A. § 3001(23)(A)(i), which requires that the company “significantly furthers the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal revenue Code of 1986, 26 U.S.C. § 170(c)(2)(B).” This language is in turn derived from the PRI exception (26 CFR 53.4944-3(a)(1)(i)), which reads: “The primary purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(B).”

⁷ This provision is derived from the Vermont L3C statute, 11 V.S.A. § 3001(23)(A)(ii), which requires the company “would not have been formed but for the company’s relationship to the accomplishment of charitable or educational purposes.”

⁸ This provision is derived from the Vermont L3C statute, 11 V.S.A. § 3001(23)(B), which states, “No significant purpose of the company is the production of income or the appreciation of property; provided, however, that the fact that a person produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property” (emphasis added). This language is in turn derived from the PRI exception (26 CFR 53.4944-3(a)(1)(ii)), which reads: “No significant purpose of the investment is the production of income or the appreciation of property,” and from IRC § 4944(c), which reads: “Exception for program-related investments. For purposes of this section, investments, the primary purpose of which is to accomplish one or more of the purposes described in section [IRC

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income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.¹⁰

- d. The Company will not engage in any political or legislative activities within the meaning of Section 170(c)(2)(D) of the Code.
- e. The Company will not carry on propaganda, or otherwise attempt to influence legislation, within the meaning of Section 4945(d)(1) of the Code.
- f. If the Company at any time ceases to qualify under Section ___ of the Act or ceases to satisfy any of the foregoing requirements of this Article 6 (hereinafter an “LLC Conversion Event”), then the Company immediately shall cease to be a low-profit limited liability company, but by continuing to meet all the other requirements of the Act, the Company will continue to exist as a limited liability company; provided further, however, that notwithstanding anything to the contrary in Article 7 below, [ALTERNATIVE: subject to Article 6(g) below,] upon the occurrence of an LLC Conversion Event, the manager or managers shall be authorized to amend these Articles of Organization to change the name of the Company to conform to the requirements of Section ___ of the Act and to eliminate this Article 6.¹¹

Sec.] 170(c)(2)(B), and no significant purpose of which is the production of income or the appreciation of property, shall not be considered as investments which jeopardize the carrying out of exempt purposes.”

⁹ Another alternative, which is not used in the enacted L3C statutes thus far, might be “No significant purpose of one or more limited liability company *interests* in the Company is the production of income or the appreciation of property. . . .” Such a change conceivably alters the nature of an L3C from a charitable or educational purpose entity to merely a normal LLC with at least one PRI member.

¹⁰ This provision continues by clarifying the “no significant purpose” as written in the regulation from 26 CFR 53.4944-3(a)(2)(iii), which reads: “In determining whether a significant purpose of an investment is the production of income or the appreciation of property, it shall be relevant whether investors solely engaged in the investment for profit would be likely to make the investment on the same terms as the private foundation. However, the fact that an investment produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.”

¹¹ This provision is derived from 11 V.S.A. § 3001(23)(D), which reads: “If a company that met the definition of this subdivision (23) at its formation at any time ceases to satisfy any one of the requirements, it shall immediately cease to be a low-profit limited liability company, but by continuing to meet all the other requirements of this chapter, will continue to exist as a limited liability company. The name of the company must be changed to be in conformance with subsection 3005(a) of this title.”

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- g. [OPTIONAL:¹² The manager or managers have a duty to notify all of the members of the Company in writing immediately upon determining either (i) that an LLC Conversion Event is reasonably foreseeable or (ii) that an LLC Conversion Event has occurred. Furthermore, upon such determination, the manager or managers shall, in accordance with the Company's written operating agreement (if any) or the Act (if the Company has no written operating agreement or applicable provision thereof), as soon as practical call a special meeting of the members of the Company. At such special meeting, the members shall determine, in accordance with the Company's written operating agreement (if any) or the Act (if the Company has no written operating agreement or applicable provision thereof), whether (i) to continue the Company's existence as a limited liability company; (ii) to liquidate and dissolve the Company in accordance with the Company's written operating agreement or applicable provision thereof (if any) or the Act (if the Company has no written operating agreement or applicable provision thereof); or (iii) to take such other and further action as the members shall determine.]
- h. [OPTIONAL: Language requiring the Company to register under applicable charitable trust provisions, if any. Illinois requires L3Cs to so register and thus subjects L3Cs to the supervision of the Illinois Attorney General. See 805 ILCS 180/1-26(d).]¹³
7. [OPTIONAL: AMENDMENT. These Articles of Organization may not be amended or modified without the unanimous vote or consent of the members of the Company.¹⁴ [OR: "without the vote or consent of the _____ Foundation."]]

¹² The authors recommend that this paragraph 6(b), or preferably even more thorough protective language, be included in the section of the Company's written Operating Agreement that pertains to the rights of members of the L3C. Private foundation members, in particular, should be apprised of any circumstance that either may or has resulted in an LLC Conversion Event so that they may take appropriate action to either liquidate their investment or declassify it as a PRI. The LLC Conversion Event language is included here as a failsafe provision and should be omitted if substantially similar language is contained in a written Operating Agreement.

¹³ Most states do not require L3Cs to register with that state's Attorney General. If the Company voluntarily desires to incorporate a provision into its Articles permitting Attorney General supervision, consider inserting such language here. Note, however, that any such language is purely optional, even in Illinois, and that local law may not authorize the Attorney General to exercise supervisory rights over an L3C even if they are voluntarily granted in the Company's Articles or Operating Agreement.

¹⁴ This provision is optional and would ensure minority owners (such as a private foundation) that the Company's Articles cannot be amended without unanimous consent.

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IN WITNESS WHEREOF, the undersigned has executed these Articles of Organization, this

_____ day of _____, 20_____.

Name of Organizer/ Attorney for Organizer