

## OPERATING AGREEMENT

OF

### CALVERTON AVIATION & TECHNOLOGY LLC

Operating Agreement (this "Agreement") of Calverton Aviation & Technology LLC, a Delaware limited liability company (the "Company"), made this 28<sup>th</sup> day of March, 2018 between Triple Five Real Estate I LLC, a Delaware limited liability company with an address of One Meadowlands Plaza, East Rutherford, NJ 07073 ("T5"), and Luminati Aerospace LLC, a Delaware limited liability company with an address of 400 David Court, Calverton, NY 11933 ("Luminati", together with T5, the "Members", and each, a "Member").

#### WITNESSETH:

WHEREAS, on December 13, 2017, a certificate of formation was filed forming the Company as a limited liability company pursuant to and in accordance with the Delaware Limited Liability Company Act, 6 Del. C. §§ 18-101, et seq. (the "Delaware Act"); and

WHEREAS, the parties hereto desire to enter into this Agreement to provide for the Company's name, term, purposes, ownership interests, management, and certain other matters, all as permitted under the Delaware Act.

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein and other valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Members agree as follows:

#### **I. Name.**

The name of the Company shall be CALVERTON AVIATION & TECHNOLOGY LLC, and all business of the Company shall be conducted under this name, or such other name as the Managing Member (as hereinafter defined) from time to time may determine.

#### **II. Term.**

The term of the Company shall continue in perpetuity unless and until the Company is dissolved in accordance with the Delaware Act.

#### **III. Purposes.**

Subject to the provisions of the immediately following paragraph, the purposes for which the Company has been formed are (i) to purchase certain property (the "Property") located in Enterprise Park at Calverton, New York owned by the Town of Riverhead Community Development Agency (the "CDA"), (ii) thereafter to own, design, construct, develop, improve, manage, operate, lease, finance, refinance, and otherwise deal with the Property, and (iii) any other lawful purposes. This shall include the ability to incur indebtedness, secured and unsecured; to enter into and perform contracts and agreements of any kind necessary to, in

connection with, or incidental to the business of the Company; and to carry on any other activities necessary to, in connection with or incidental to the purposes of the Company.

If the agreement of sale to purchase the Property (the “Agreement of Sale”) is entered into by the Company, nothing contained herein or otherwise shall limit the right of the Company to terminate the Agreement of Sale pursuant to its terms. Without limiting the generality of the foregoing, the determination to purchase of the Property under the Agreement of Sale (or to proceed with the development of the Property generally), shall be subject to (i) the approval of the Managing Member (in its sole and absolute discretion) of all aspects of the transaction including the due diligence and financeability of the project and (ii) the Managing Member’s determination (in its sole and absolute discretion) to proceed with the acquisition and development of the Property.

**IV. Ownership Interests.**

The Company shall be owned as follows:

T5	75%
Luminati	25%

**V. Management.**

The Members agree that T5 shall be the sole managing Member (the “Managing Member”) of the Company and as such shall have full and sole authority to manage and control the business, affairs, and properties of the Company. T5 agrees to keep Luminati reasonably informed with respect to the business, affairs, and properties of the Company and any decisions made by T5 regarding those matters.

The Members further agree that Luminati is a minority Member of the Company, is not a Managing Member of the Company, and has no management rights over or control of any type with respect to the Company, its business, affairs and/or property.

The Members further agree that the business and affairs of the Company shall be conducted and managed by the Managing Member of the Company in accordance with this Agreement and the laws of Delaware.

Any difference arising as to any matter within the authority of the Managing Member shall be decided solely by the Managing Member.

The Managing Member shall have responsibility for the day-to-day management of the business and affairs of the Company and shall devote such time and attention as the Managing Member deems necessary to the conduct and management of the business and affairs of the Company. The Managing Member shall not be entitled to compensation for service as such, provided that it shall be reimbursed by the Company for reasonable documented expenses incurred in connection with such service.

The Managing Member hereby is given sole power and authority to execute instruments on behalf of the Company and to otherwise bind the Company. Unless authorized by the

Managing Member, no other person shall have the power or authority to execute instruments on behalf of the Company and to otherwise bind the Company. No person, firm or corporation dealing with the Company shall be required to investigate the authority of the Managing Member or to secure the approval of or confirmation by the Members of any act of the Managing Member in connection with the business or affairs of the Company.

No Member, other than the Managing Member or its designees, shall have the authority, or shall take any action as a Member, to bind the Company.

The Managing Member shall possess and enjoy all rights and powers necessary or appropriate for the conduct and management of the business and affairs of the Company and hereby is authorized to make all decisions relating to the business and affairs of the Company. The Managing Member may make all decisions relating to the Company and the Property, including, but not limited to: the purchase, exchange, lease, transfer, encumbrance or other acquisition of any property, for cash, other property, or on terms; the borrowing of money and the obtaining of loans, secured and unsecured, for the Company and in connection therewith the issuance of notes, debentures and other debt securities and the securing of the same by assigning for security purposes, pledging or hypothecating all or part of assets of the Company; the expenditure of the capital and receipts of the Company in furtherance of the business of the Company; the purchase of equipment, supplies and services as the Managing Member deems appropriate; the lending or advancing of money to third parties in connection with the business of the Company; the investment of funds of the Company in interest-bearing bank deposits, governmental obligations, institutional and insured short-term debt securities and short-term commercial paper, pending disbursement of the Company's funds or to provide a source from which to meet contingencies; the purchase of hazard, liability and other insurance which the Managing Member may deem necessary or proper; the employment of attorneys, accountants, brokers, consultants and other persons, firms and corporations to render services to the Company as the Managing Member may deem necessary or proper, the enforcement, compromise and settlement of any rights or claims in favor of or against the Company or any nominee of the Company; and the taking of all other actions and the execution and delivery of any and all other instruments and agreements as the Managing Member may deem appropriate to carry out the intents and purposes of this Agreement.

The Managing Member shall maintain or cause to be maintained records and accounts of all operations and expenditures of the Company. Upon reasonable advance notice, during normal business hours, either Member may, at its expense, inspect such records.

No Member shall be personally liable for any debts, losses, or obligations of the Company by reason of being a Member. The Company shall indemnify each Member against any such liability to which either of them may become subject without its consent.

**VI. Runway Use Agreement.**

Simultaneously with the closing of the purchase of the Property, Luminati will terminate, and will cause 400 David Court LLC to terminate, the Runway Use Agreement dated November 4, 2015 between the CDA, the Town of Riverhead, Luminati, and 400 David Court LLC, as such rights shall belong to the Company.

**VII. Amendments.**

This Agreement may not be amended without the written agreement of both Members.

**VIII. Miscellaneous.**

A. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to conflict of laws.

B. Severability. If any provision of this Agreement is invalid, illegal or unenforceable, the balance of this Agreement shall remain in effect, and if any provision is inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances.

C. Interpretation. The captions in this Agreement are for convenience only and are not to be considered in construing this Agreement. All pronouns shall be deemed to be the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require. References to a person or persons shall include partnerships, corporations, limited liability companies, unincorporated associations, trusts, estates and other types of entities.

D. No Waivers. Any waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. The failure of a party to insist upon strict adherence to any term of this Agreement on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. Any waiver must be in writing.

E. Counterparts. This Agreement, and any amendments hereto may be executed in counterparts all of which taken together shall constitute one agreement.

F. Merger. This Agreement sets forth the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all existing agreements between them concerning such subject matter.

G. Waiver of Jury Trial. Each Member hereby waives its right to a jury trial of any claim or cause of action based upon or arising out of this Agreement or any dealings between the Members relating to the subject matter hereof and the relationship that is established hereby. The scope of this waiver is intended to be all encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including without limitation, contract claims, tort claims, breach of duty claims, and all other common law and statutory claims. Each Member acknowledges that this waiver is a material inducement to enter into a business relationship, that each has relied on this waiver in entering into this Agreement and that each will continue to rely on the waiver in their related future dealings. Each Member further warrants and represents that it has reviewed this waiver with its legal counsel, and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel.

H. Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, executors, administrators, successors and assigns.

I. Creditors and Third Parties. The covenants, obligations, and rights set forth in this Agreement are not intended to benefit any creditor of the Limited Liability Company or of any Member, or any other third party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

**LUMINATI AEROSPACE LLC**

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

Name: Daniel Preston

Title: Chief Executive Officer

**TRIPLE FIVE REAL ESTATE I LLC**

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

Name: Syd Ghermezian

Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

**LUMINATI AEROSPACE LLC**

By:   
Name: Daniel Preston  
Title: Chief Executive Officer

**TRIPLE FIVE REAL ESTATE I LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_