

## AGREEMENT REGARDING PREFERRED DISTRIBUTIONS

**THIS AGREEMENT REGARDING PREFERRED DISTRIBUTIONS** (the "Agreement") dated as of this January 13, 2017 (the "Effective Date"), is entered into by and between *Fedor Fedorov* (the "Preferred Member") and *Body Contour Ventures, LLC*, a Michigan limited liability company (the "Company"), based on the following facts and circumstances, which are incorporated into this Agreement:

A. On the Effective Date of this Agreement, Preferred Member has also executed a certain Subscription Agreement and, pursuant thereto, did subscribe for and receive a total of Eight Hundred (800) units of membership interest in the Company, equal to eight percent (8%) of the Company's outstanding membership interests, subject to the terms of a certain Second Amended and Restated Operating Agreement, for which Preferred Member made a capital contribution of Six Hundred Thousand and 00/100 Dollars (\$600,000);

B. Section 10.9 of the Second Amended and Restated Operating Agreement provides certain rights to holders of Series A Preferred Units, including the right to receive a higher percentage of distributions, as underlined in the following excerpt:

"Until such time as the Preferred Member shall have received total Distributions of any nature equal to the Series A Original Issue Price of the Preferred Units held by the Preferred Member, the Preferred Member's Percentage Interest for the purposes of Sections 10.2, 10.3 and 10.4 shall be forty percent (40%). Upon the Preferred Member's receipt of total Distributions equal to the Series A Original Issue Price of the Preferred Units held by the Preferred Member, the Preferred Member's Percentage Interest shall be a fraction expressed as a percentage the numerator of which is the aggregate number of Units held by the Preferred Member and the denominator of which is the aggregate number of Units of all Unitholders."

[Emphasis added]

C. Preferred Member has agreed to waive his right to receive Distributions based on the forty percent (40%) Percentage Interest set forth in Section 10.9, and, in lieu thereof, the Company has agreed to pay, and Preferred Member has agreed to accept, a return of his Series A Original Issue Price in the form of monthly payments as further described hereinbelow.

D. All capitalized terms used in this Agreement shall have the meaning set forth in the Second Amended and Restated Operating Agreement.

NOW THEREFORE, in consideration of the mutual promises set forth herein and intending to be legally bound hereby, the parties hereto agree as follows:

1. Receipt of Monthly Payments in Lieu of Forty Percent (40%) Percentage Interest under Section 10.9 of Second Amended and Restated Operating Agreement.

- (a) Preferred Member has agreed to waive his right to receive disproportionately high Distributions based on a forty percent (40%) Percentage Interest as set forth in Section 10.9, and, in lieu thereof, the Company has agreed to pay, and Preferred Member has agreed to accept, a return of capital in the form of a preferred distribution to be remitted each month for sixty (60) consecutive months ("Preferred Distribution(s)"). The monthly Preferred Distribution amount shall be derived as follows: The sum of (a) the "Preferred Return" (as hereinafter defined) owed to the Preferred Member, and (b) amortization of the Preferred Member's unreturned capital contribution, payable over a period of sixty (60) consecutive months commencing ninety (90) days following the date that the Preferred Member made his full capital contribution.
- (b) The Preferred Member has made a capital contribution of \$600,000<sup>1</sup> for the Preferred Units. Accordingly, the Preferred Member's Preferred Distribution shall be Fourteen Thousand Six Hundred Thirty-Three and 04/100 Dollars (\$14,633.04) per month for sixty (60) consecutive months commencing ninety (90) days following the date that the Preferred Member made his full capital contribution, and shall be satisfied upon the Company's payment of the sixtieth (60th) monthly payment. The Company may prepay the unreturned portion of the Preferred Member's capital contribution without amortization at any time without penalty.
- (c) For the purposes of this Agreement, "Preferred Return" means, with respect to the Preferred Member, a sum equal to fifteen percent (15%) per annum on the Preferred Member's unreturned capital from the date of the capital contribution until such time as the Preferred Member's capital contribution has been fully returned.

2. Security Agreement. The Company hereby grants to Preferred Member a security interest in all goods, equipment, furniture, fixtures, wherever located, now owned or hereafter acquired by the Company, and all chattel paper evidencing any leasing or financing of said equipment and fixtures, all proceeds (whether cash or non-cash proceeds, including insurance proceeds) of the foregoing property, and accounts receivable, and Preferred Member is authorized to file one or more UCC-1 financing statements as necessary to perfect the security interest granted hereunder, provided that Preferred Member hereby agrees to subordinate its security interest to any bank or other institution if reasonably requested by the Company in order to obtain credit or financing from such bank or other institution, unless such subordination will materially diminish Preferred Member's likelihood of collecting the amounts secured thereby. The parties agree and acknowledge that the security interest granted hereunder only secures the

<sup>1</sup> Accordingly, \$600,000 is the Series A Original Issue Price of the Preferred Units issued to Preferred Member.

payment of Preferred Distributions under Section 1(b) above. In the event the Company fails to timely pay the Preferred Distributions as provided under Section 1(b) of this Agreement, Preferred Member hereby agrees to refrain from foreclosing unless such failure to pay continues for a period of thirty (30) days following the Company's receipt of Preferred Member's written demand therefor.

3. Good Faith, Cooperation, and Due Diligence. Each party covenants, warrants, and represents to each other party that he/it will act in good faith, act with due diligence, and provide his/its complete cooperation, and that he/it will do such other and further acts, including without limitation the execution of any documents or instruments, which are reasonable or may be necessary, helpful, or convenient in carrying out the purposes and intent of this Agreement. Said promises and covenants are mutual and dependent.

4. General.


- (a) This Agreement and the Second Amended and Restated Operating Agreement of the Company, including any attached exhibits, embody the entire agreement and understanding of the parties with respect to the subject matter and supersede all prior discussions, agreements, and undertakings between the parties.
- (b) All of the terms, covenants, representations, warranties and conditions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by, the parties hereto and their respective successors and assigns.
- (c) This Agreement and the rights and obligations hereunder shall not be assignable by any party without the written consent of all other parties to this Agreement.
- (d) This Agreement may be amended, modified or cancelled, and any of the provisions hereof may be waived, only by a written instrument executed by each party or, in the case of a waiver, by the party waiving compliance.
- (e) The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce the same. No waiver by any party of any provision, or of any breach of any provision of this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed to be or construed as a further or continuing waiver of such provision or breach or of any other provision or breach.
- (f) The invalidity of all or any part of any provision of this Agreement shall not render invalid the remainder of such provision.
- (g) No party or its respective legal counsel shall be construed to be the drafter or primary drafter of this Agreement. If there are disputes regarding the construction of this Agreement or any of its provisions, ambiguities or questions of interpretation shall not be construed in favor of one party over another; rather, questions of interpretation shall be construed equally as to each party.
- (h) This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A telefaxed or electronic signature shall have the same binding effect as an original signature that has been physically delivered.

- (i) Michigan law governs this Agreement. Notwithstanding anything herein to the contrary, the dispute resolution provisions in the Second Amended and Restated Operating Agreement of each Company shall govern any disputes under this Agreement.
- (j) Each party represents that, in entering into this Agreement, (i) it/he has read and understands this Agreement, and has relied and is relying solely upon its/his own judgment, belief, and knowledge of the nature, extent, effect, and consequences relating thereto, and upon the advice of its/his own legal counsel and financial advisors; (ii) this Agreement is being made without reliance upon any statement or representation not contained or referenced in this Agreement of any other party, or any representative, agent, or attorney of any other party; (iv) no promise, inducement, or agreement not expressed in this Agreement has been made to any of the parties; and (v) the terms and conditions contained herein are contractual and not mere recitals.

IN WITNESS WHEREOF, the undersigned have executed this Agreement Regarding Preferred Distributions as of the day and year written above.

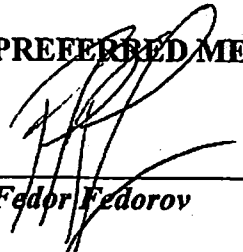
**COMPANY:**

**Body Contour Ventures, LLC**  
A Michigan Limited Liability Company

  
By: Richard C. Morgan  
Its: President

Dated: 1/13/17

**PREFERRED MEMBER:**

  
Fedor Fedorov

Dated: 1/13/17