

# **OPERATING AGREEMENT**

## **OF**

### **MHSE CLEMSON, LLC**

This Operating Agreement of MHSE CLEMSON, LLC (the “Company”) effective June 20, 2025, is hereby adopted by and between the Members (as defined below) and the Company (as defined below), and is executed and agreed to, for good and valuable consideration, by the Members and the Company.

## **ARTICLE I DEFINITIONS**

### **1.1 Definitions.**

As used in this Operating Agreement, the following terms have the following meanings:

(A) “**Act**” means the South Carolina Uniform Limited Liability Company Act of 1996 and any successor statute as amended from time to time.

(B) “**Articles**” means the Articles of Organization filed with the Secretary of State of South Carolina by which MHSE CLEMSON, LLC was organized as a South Carolina limited liability company under and pursuant to the Act, together with any amendments thereto.

(C) “**Capital Contribution**” means any contribution by the Members to the capital of the Company.

(D) “**Code**” means the Internal Revenue Code of 1986, as amended, and any successor statute as amended from time to time.

(E) “**Company**” means MHSE CLEMSON, LLC, a South Carolina limited liability company.

(F) “**Company Liability**” means any enforceable debt or obligation for which the Company is liable or which is secured by any Company property.

(G) “**Dispose,**” “**Disposing,**” or “**Disposition**” means a sale, assignment, transfer, exchange, mortgage, pledge, grant of a security interest, or other disposition or encumbrance, voluntary or involuntary, by operation of law or otherwise.

(H) “**Distributional Interest**” means all of a Members’ interest in distributions by the Company.

(I) **“General Interest Rate”** means a rate per annum equal to the lesser of (a) the *Wall Street Journal* prime rate as quoted in the money rates section of the *Wall Street Journal* which is also the base rate on corporate loans at large United States money center commercial banks, from time to time as its prime commercial or similar reference interest rate, with adjustments in that varying rate to be made on the same date as any change in that rate, and (b) the maximum rate permitted by applicable law.

(J) **“Members”** means Mercy Housing Southeast, a North Carolina non-profit corporation.

(K) **“Membership”** means all of the rights of a Member under this Agreement and under the Act.

(L) **“Net Losses”** means the losses and deductions of the Company determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company and as reported separately or in the aggregate, as appropriate, on the tax return of the Company, if any, filed for federal income tax purposes.

(M) **“Net Profits”** means the income and gains of the Company determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company and as reported separately or in the aggregate as appropriate on the tax return of the Company filed for federal income tax purposes.

(N) **“Operating Agreement”** means this Agreement together with any amendments hereto from time to time.

(O) **“Person”** includes an individual, partnership, limited partnership, limited liability company, foreign limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, trust, estate, corporation, custodian, trustee, executor, administrator, nominee or other legal or commercial entity and any individual or entity acting in a representative capacity.

Other terms defined herein have the meanings so given them.

## **ARTICLE II ORGANIZATION**

### **2.1 Formation.**

The Company has been organized as a South Carolina limited liability company by the filing of the Articles with the South Carolina Secretary of State pursuant to the Act.

### **2.2 Name.**

The name of the Company is MHSE CLEMSON, LLC and all Company business shall be conducted in that name or such other names that comply with applicable law as the Company may select from time to time.

### **2.3 Registered office.**

The registered office of the Company required by the Act to be maintained in the State of South Carolina shall be the office of the initial registered agent named in the Articles or such other office (which need not be a place of business of the Company) as the Company and the Members may designate from time to time in the manner provided by law.

### **2.4 Registered agent.**

The registered agent of the Company in the State of South Carolina shall be the initial registered agent named in the Articles or such other Person or Persons as the Company and the Members may designate from time to time in the manner provided by the Act.

### **2.5 Principal office in the United States and other offices.**

The principal office of the Company in the United States shall be at such place as the Company and the Members may designate from time to time, which need not be in the State of South Carolina. The Company may have such other offices as the Company and the Members may designate from time to time.

### **2.6 Purposes.**

The purposes of the Company is to engage in any lawful business or activity for which limited liability companies may be organized under the Act. The Company shall have any and all powers that are necessary or desirable to carry out the purpose and business of the Company, to the extent the same may be legally exercised by limited liability companies under the Act. The Company shall carry out the foregoing activities pursuant to the arrangements set forth in the Articles of Organization and this Agreement..

### **2.7 Reserved.**

### **2.8 Term.**

The Company shall be an at will Company within the meaning of the Act. The Company commenced on the date the Articles were filed with the Secretary of State of South Carolina, and the Company shall continue in existence until terminated pursuant to applicable law.

### **2.9 Reserved.**

## **ARTICLE III MEMBERS**

### **3.1 Additional Members.**

Except as otherwise provided in Section 3.6, additional Persons may be admitted to the Company and Memberships may be created and issued to those Persons and to the Members on such terms and conditions as the Company may determine at the time of admission. The terms of admission or issuance must specify the percentage of Net Profit and Net Loss allocable to such Person and the Capital Contribution applicable thereto and may provide for the creation of different classes or groups of Memberships having different rights, powers, and duties. The Company shall reflect the creation of any new class or group of Memberships in an amendment to this Operating Agreement. Any such admission also must comply with the requirements described elsewhere in this Operating Agreement and is effective only after the new Person has executed and delivered to the Company, as appropriate, a document including the new Person's notice address and its agreement to be bound by the terms of an operating agreement which reflects the existence of at least two members.

### **3.2 Liabilities to third parties.**

Except as otherwise expressly agreed in writing, the Members shall not be liable for the debts, obligations or liabilities of the Company, including under a judgment decree or order of a court.

### **3.3 Withdrawal.**

The Members may not withdraw from the Company prior to the date specified in the Articles for dissolution of the Company.

### **3.4 Action without meeting.**

Any action required by the Act to be taken at a meeting of the Members or any action which may be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if a consent in writing setting forth the action so taken is signed by the Members.

### **3.5 Assignment of Distributional Interest.**

Unless otherwise provided by this Operating Agreement:

(A) a Distributional Interest is assignable in whole or in part;

(B) an assignment of a Distributional Interest does not entitle the assignee to become or to exercise the rights or powers of a members in the Company;

(C) an assignment of a Distributional Interest entitles the assignee to receive, to the extent transferred, only the distributions to which the assignor would be entitled, and the assignee shall be allocated the assignor's allocable share of Net Profits and Net Losses; and

(D) until the assignee becomes a member in the Company, the assignor continues to be a member and to have the power to exercise any rights or powers of a member except to the extent of the Distributional Interest assigned.

### **3.6 Certain Assignees shall become Members.**

Notwithstanding the provisions of Section 3.5, if the Member's entire Distributional Interest is assigned voluntarily by the Member by sale, exchange, gift, or involuntarily by reason of the Member's death, insolvency or bankruptcy, (but not by reason of a charging order obtained by a creditor under the Act), then the assignee of the Member's Distributional Interest shall automatically become a member of the Company, shall be bound by this Agreement, and shall be entitled to all of the rights of the Member hereunder and at law.

### **3.7 Right to distribution.**

From time to time the Company may make distributions, including distributions of Capital Contributions, to the Member. Subject to the Act, at the time that the Member becomes entitled to receive a distribution, the Member has the status of and is entitled to all remedies available to a creditor of the Company with respect to the distribution.

### **3.8 Limitation on distribution.**

No distribution may be made if, after giving effect to the distribution:

(A) the Company would not be able to pay its debts as they become due in the ordinary course of business; or

(B) the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed if the Company were to be dissolved, wound up and terminated at the time of the distribution to satisfy the preferential rights upon dissolution, winding up and termination of members whose preferential rights are superior to those receiving the distribution. The Company may base a determination that a distribution is not prohibited upon the provisions of Section 33-44-406(b) and (c) of the Act.

## **ARTICLE IV CAPITAL CONTRIBUTIONS**

### **4.1 Initial contributions.**

The Member's Capital Contribution is described in Exhibit A.

#### **4.2 No Interest.**

The Member is not entitled to be paid interest in respect of either the Member's capital account or Capital Contributions.

#### **4.3 Advances by Member.**

If the Company does not have sufficient cash to pay its obligations, the Members may in the Members' sole discretion advance all or part of the needed funds to or on behalf of the Company. An advance described in this section constitutes a loan from the Members to the Company, bears interest at the General Interest Rate from the date of the advance until the date of payment and is not a Capital Contribution.

#### **4.4 No other Capital Contributions Required.**

The Members shall not be required to contribute any additional capital to the Company, and shall not be liable for any debts, liabilities or obligations of the Company.

### **ARTICLE V MANAGEMENT BY MEMBERS**

#### **5.1 Management by Members.**

The Company is member managed within the meaning of the Act. The powers of the Company shall be exercised by or under the authority of the Members, and the business and affairs of the Company shall be managed under the direction of the Members. The Members may make all decisions and take all actions for the Company not otherwise provided for in this Operating Agreement, including without limitation the following:

(A) entering into, making, and performing contracts, agreements, and other undertakings binding the Company that may be necessary, appropriate, or advisable in furtherance of the purposes of the Company and making all decisions and waivers thereunder;

(B) opening and maintaining bank and investment accounts and arrangements, drawing checks and other orders for the payment of money, and designating individuals with authority to sign or give instructions with respect to those accounts and arrangements;

(C) maintaining the assets of the Company in good order;

(D) collecting sums due the Company;

(E) to the extent that funds of the Company are available therefor, paying debts and obligations of the Company;

(F) acquiring, utilizing for Company purposes, and disposing of any asset of the Company;

(G) borrowing money or otherwise committing the credit of the Company for Company activities and voluntary prepayments or extensions of debt;

(H) selecting, removing, and changing the authority and responsibility of lawyers, accountants, and other advisers and consultants;

(I) obtaining insurance for the Company; and

(J) determining distributions of Company cash and other property.

## **5.2 Actions by the Members; delegation of authority and duties.**

(A) The Members may assign titles (including, without limitation, president, vice president, secretary, assistant secretary, treasurer and assistant treasurer) to any Person. Unless the Members decide otherwise, 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. Any delegation pursuant to this Section may be revoked at any time by the Members.

(B) Except as otherwise provided in the Articles, any Person dealing with the Company may rely on the authority of the Members or any officer of the Company in taking action in the name of the Company without inquiry into the provisions of this Operating Agreement or compliance herewith regardless of whether that action actually is taken in accordance with the provisions of this Operating Agreement.

(C) The Members hereby designate, elect and appoint James Alexander as President, Secretary and Treasurer of the Company, to serve as such until he resigns or his successor is duly elected and qualified by the Members.

## **5.3 Personal Services.**

The Members shall not be required to perform any services for the Company by virtue of being a member of the Company. The Members shall not be required to devote his full time and efforts to the Company.

# **ARTICLE VI INDEMNIFICATION**

## **6.1 Liability.**

The Members shall not be liable, responsible or accountable in damages or otherwise, to the Company for any action or omission made by the Member in connection with the business of the Company.

## **6.2 Indemnification.**

The Company shall indemnify the Members for all costs, losses, liabilities, and damages paid or accrued by the Members in connection with the business of the Company, to the fullest extent provided or allowed by the laws of the State of South Carolina.

## **ARTICLE VII DISSOLUTION, LIQUIDATION, AND TERMINATION**

### **7.1 Dissolution.**

The Company shall dissolve and its affairs shall be wound up only upon the first to occur of the following:

- (A) the written consent of the Members;
- (B) the expiration of the period fixed for the duration of the Company set forth in the Articles; or
- (C) administrative dissolution of the Company as provided in Section 33-44-809 of the Act, unless the Company is reinstated in the manner provided in Section 33-44-811 or Section 33-44-812 of the Act.

The death of a Member who is a natural person shall not cause a dissolution of the Company. The liquidation, merger, reorganization, termination or dissolution of a Member who is not a natural person shall not cause a dissolution of the Company.

### **7.2 Winding up and termination.**

Upon dissolution of the Company, the Members will act as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company's business with all of the power and authority of the Members. The steps to be accomplished by the liquidator are as follows:

- (A) as promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made of the Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed as applicable;
- (B) the liquidator shall cause the notice described in Section 33-44-807 of the Act to be mailed to each known creditor of and claimant against the Company in the manner described in



such Section 33-44-807 of the Act, and the liquidator shall publish notice of the Company's dissolution in accordance with the provisions of Section 33-44-808 of the Act;

(C) the liquidator shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including, without limitation, all expenses incurred in liquidation and any advances described in Section 4.3) or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and

(D) all remaining assets of the Company shall be distributed to the Members.

### **7.3 Articles of Termination.**

After the dissolution and winding up of the Company, the Company and the Members may file Articles of Termination with the Secretary of State of South Carolina and take such other actions as may be necessary to terminate the legal existence of the Company.

## **ARTICLE VIII GENERAL PROVISIONS**

### **8.1 Books and records.**

The Company shall maintain those books and records it may deem necessary or desirable. The Company shall keep its books on the cash method of accounting unless otherwise required by law.

### **8.2 Amendment or modification.**

The Operating Agreement may be amended and modified from time to time only by a written instrument adopted and executed by the Members.

### **8.3 Checks, notes, drafts, etc.**

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Company shall be signed or endorsed by a designated Person appointed by the Members. The designated Person may be an officer(s), the Members, or other such Person(s) as may be designated by the Members from time to time.

### **8.4 Headings.**

The headings used in this Operating Agreement have been inserted for convenience only and do not constitute matter to be construed in interpretation.

### **8.5 Construction.**

Whenever the context so requires, the gender of all words used in this Operating Agreement includes the masculine, feminine, and neuter genders, and the singular shall include the plural and conversely. All references to Articles and Sections refer to articles and sections of this Operating Agreement, and all references to Exhibits, if any, are to Exhibits attached hereto, each of which is made a part hereof for all purposes.

#### **8.6 Entire agreement.**

This Operating Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior contracts or agreements with respect to the subject matter hereof, whether oral or written.

#### **8.7 Effect of waiver or consent.**

A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to this Operating Agreement is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to this Operating Agreement. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to this Operating Agreement, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default.

#### **8.8 Binding effect.**

Except as otherwise set forth in this Operating Agreement, this Operating Agreement is binding on and inures to the benefit of the Members and the Company and their heirs, personal representatives, legal representatives, successors, and assigns.

#### **8.9 Governing law; severability.**

This Operating Agreement is governed by and shall be construed in accordance with the laws of the State of South Carolina notwithstanding any conflict-of-laws rule or principle that might refer the governance or construction of this Operating Agreement to the law of another jurisdiction. In the event of a direct conflict between the provisions of this Operating Agreement and a mandatory provision of the Articles, or a mandatory provision of the Act, the applicable provision of the Articles or the Act shall control. If any provision of this Operating Agreement or the application thereof to any Person or circumstance is held invalid or unenforceable to any extent, the remainder of this Operating Agreement and the application of that provision to other Persons or circumstances is not affected thereby, and that provision shall be enforced to the greatest extent permitted by law.

#### **8.10 Third Parties.**

The agreements, covenants and representations contained herein are for the benefit of the parties hereto inter se and are not for the benefit of any third parties including, without limitation, any creditors of the Company or creditors of the Members.

### 8.11 Counterparts.

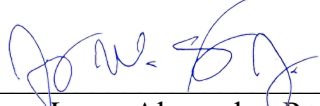
This Operating Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

The undersigned hereby certify that the foregoing Operating Agreement was adopted by the Members and the Company, effective the date and year first above written, and the undersigned have executed and sealed this Operating Agreement.

MEMBERS:

MHSE CLEMSON MM, LLC, a South Carolina  
limited liability company

By: MERCY HOUSING SOUTH EAST, a  
North Carolina non-profit corporation, its  
managing member

By:   
James Alexander, President

**EXHIBIT A**  
**OPERATING AGREEMENT OF MHSE CLEMSON, LLC**

**MEMBER**

**CAPITAL CONTRIBUTION**

MHSE Clemson MM, LLC  
260 Peachtree St. #1800  
Atlanta, GA 30303

\$ 100.00