

SERIES OPERATING AGREEMENT

SHIFT DAO LLC

Series 12 “TSLA X2 SHIFT”

NOTICE OF RESTRICTIONS ON DUTIES AND TRANSFERS

The rights of members in a decentralized autonomous organization may differ materially from the rights of members in other resident domestic or non-resident domestic limited liability companies. The DAO Act, underlying smart contracts, certificate of formation and limited liability company agreement (i.e., the operating agreement), if applicable, of a decentralized autonomous organization may define, reduce or eliminate fiduciary duties and may restrict transfer of ownership interests, withdrawal or resignation from the decentralized autonomous organization, return of capital contributions and dissolution of the decentralized autonomous organization.

This Series Operating Agreement (the “**Agreement**”) relates to **TSLA X2 Shift** (“**Series 12**”), a designated series of **Shift DAO LLC**, a for-profit series limited liability company (the “**Company**” or “**Master DAO**”) formed under the laws of the Republic of the Marshall Islands pursuant to the Marshall Islands Limited Liability Company Act of 1996, as amended (the “**LLC Act**”), the Marshall Islands Business Corporations Act, as amended (the “**BCA**”), and the Decentralized Autonomous Organization Act, 2022, as amended (the “**DAO Act**”), and is entered into by and between the Company, solely in its limited and non-discretionary capacity as the administrative agent of Series 12, and the initial nominee member of Series 12, which holds its membership interest solely for purposes of facilitating the formation and annual renewal of Series 12 and has no economic entitlement or discretionary authority, and shall become effective as of the date of its execution (the “Effective Date”). Capitalized terms used but not otherwise defined in this Agreement shall have the meanings ascribed to them in the Company’s Master Operating Agreement or, if not defined therein, in the applicable provisions of the LLC Act, the BCA, or the DAO Act, as applicable.

WHEREAS, the Company hereby creates a new Series called TSLA X2 Shift (“Series 12”), which shall be governed by this Agreement. The Company is not a manager, managing member, fiduciary, or controlling person of Series 12 and acts solely in an administrative and non-fiduciary capacity;

WHEREAS, the Series 12 Members shall have limited liability company interests with separate and distinct rights, powers, duties, obligations, and objectives from the Master DAO pursuant to Section 79 (Series of members, managers of limited liability company interest) of the LLC Act, and each Series 12 Member shall possess solely the economic rights expressly set forth herein and no voting, governance, consent, approval, management, or fiduciary rights;

WHEREAS, Series 12 is designated solely to acquire, hold, and maintain in its treasury assets whose economic performance corresponds to the S&P 500® index (the “Assets”), as

established and approved by the Master DAO. To the maximum extent permitted by the LLC Act, including, without limitation, Section 79, the assets, income, gains, losses, expenses, deductions, credits, distributions, debts, obligations and liabilities of the Series 12 Assets shall be associated with and limited to Series 12, and not any other Series or the Company;

WHEREAS, Series 12 Members are owners in the Series 12 Assets and can be members of the Master DAO, and members of the Master DAO can also be members of Series 12 and other Series;

WHEREAS, to the maximum extent permitted by the LLC Act, the debts, liabilities, obligations and expenses associated with Series 12 shall not be asserted against income, gains or assets of any other Series or the Company;

WHEREAS, a Series 12 Member shall have no rights or interest with respect to any other Series, other than through such Member's interest in such Series independently acquired by such Member;

WHEREAS, Series 12 shall be dissolved and its affairs wound up pursuant to the provisions herein. The dissolution and termination of Series 12 shall not, in and of itself, cause or result in the dissolution or termination of the Company or any other Series;

WHEREAS, Series 12 and all other Series are formed and maintained pursuant to the existence and continued operation of the Company, and in the event that the Company as the Master DAO determines to wind up, cancel, or otherwise cease operations (including due to insolvency), the legal status of Series 12 and all other Series are correspondingly affected, requiring a determination as to whether such Series shall (i) continue as an independent DAO LLC pursuant to applicable law, or (ii) be wound up and its assets distributed in accordance with this Agreement;

WHEREAS, there shall be no additional reporting requirements for Series 12 beyond the requirements for the Master DAO itself pursuant to Section 103(1)(c) of the DAO Act;

NOW, THEREFORE, for and in consideration of mutual covenants contained and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I

ORGANIZATION

I.1 **Organization.** Series 12 is a designated series under Shift DAO LLC pursuant to the provisions of the DAO Act, the LLC Act, and the BCA.

I.2 **Decentralized Autonomous Organization.** The Series shall operate as a decentralized autonomous organization within the meaning of §102(c) and §104(1) and (3) of the DAO Act,

whereby the notice of restrictions on duties and transfers appears conspicuously at the beginning of this Agreement.

I.4 Principal Office. The Principal Office of the Company and the Series shall be at the principal office designated in the Certificate of Formation or at such other location as the Members may designate from time to time, which need not be in the Marshall Islands, and the Official Online Venue for the activities and member participation of Series 12 Members shall be at **www.Shiftrwa.xyz**.

I.5 Term. The Series shall commence upon the Effective Date of this Agreement and shall continue in existence until dissolved pursuant to this Agreement.

ARTICLE II

PURPOSES AND POWERS

II.1 Purpose of the Series. Series 12 is organized for the sole and exclusive purpose to acquire and hold the Assets in its treasury for the benefit of the Series, and the Series shall not engage in any business, activity, or transaction other than those necessary or incidental to such purpose, such as receiving funds for Membership Interests, minting the Membership Interest tokens, and purchasing the Assets for its treasury.

II.2 Authority of the Company. Series 12 shall have and exercise all of the powers and authority conferred by Marshall Islands law on an entity recognized as a decentralized autonomous organization limited liability company with for-profit status, and insofar as this entity form is recognized by foreign laws as a legal person separate and distinct from its Members, then the Company and Series 12 shall also have all of the powers and authority as conferred by those foreign laws.

II.3 Role of the Master DAO. The Master DAO shall define which asset the Series acquires and holds in its treasury. The Master DAO is allowed to charge operational fees to the Series using a percentage-of-treasury formula. The fee is a service or operations fee and not a performance or investment management fee.

ARTICLE III

MEMBERS

III.1 Member Eligibility. A person becomes a Member of Series 12 by obtaining a Membership Interest, which in the case of a for-profit DAO means an ownership or economic right.

Token. A person becomes a Member by obtaining at least one (1) TSLA X2 SHFT Token, created from and constricted by the parameters defined in the Smart Contract located at an address and a blockchain to be determined (the "**Token Smart Contract**"). Each person who becomes a Member of Series 12 shall be deemed to have agreed to and be bound by this

Agreement upon such person's acquiring a TSLA X2 SHFT Token evidencing membership and an economic interest in the Assets.

Token Pricing. The price of the Membership Interest will fluctuate, however, the mechanism for setting the price shall be by formula and not up to the discretion of any Member or the Master DAO. The per-token purchase price shall equal the executed market price paid in a bona fide transaction to acquire one (1) share of the Direxion Daily TSLA X2 Shares ETF (USD) (ISIN: US25460G2865), plus a transaction fee equal to 0.1% of such executed price.

Purchasing a Membership Interest. When a person contributes assets to purchase a Membership Interest, such person may use stablecoins, fiat currency, and other assets as determined. This transaction is not an exchange, just an in-kind capital contribution or property in exchange for a Membership Interest. The Series is not providing a conversion service.

Membership Parameters. Membership interests represent a limited economic interest in the Assets of the Series 12 treasury and do not provide any expectation of profit, income, or dividends. Members acknowledge that their economic rights arise solely from the value of the Assets held by Series 12 and not from any managerial effort or decision-making by the Master DAO or anyone on behalf of the Members.

Redemption. If a Member wishes to transfer their token back to the Series in exchange for funds, this is an internal membership-interest repurchase, and not an exchange or liquidity service. This transaction is available only to Members processed by smart contract where the transaction is settled directly from the treasury to the Member's wallet, not using any third-party assets.

III.2 Initial Members. The name and address of the Initial Member is as reflected in "Exhibit A" attached hereto and made a part hereof as if set forth fully herein.

III.3 Classes of Membership. The Company shall have one class of Members.

ARTICLE IV

RIGHTS AND DUTIES OF MEMBERS

IV.1 Ownership Rights. No Voting Rights. Series Members are granted treasury ownership only. Members shall have no voting rights, management rights, or authority to participate in the control or operation of the Series and shall not be deemed agents of the Series for any purpose.

IV.2 Liability of Members. No Member shall be liable for the liabilities of the Company or Series, solely by reason of being a Member of the Company or Series 12. The failure of the Company or Series to observe any formalities or requirements relating to the exercise of its powers or management of its business or affairs under this Agreement shall not be grounds for imposing personal liability on the Members of the Company or Members of Series 12.

IV.3 No fiduciary duties. In accordance with §109 of the DAO Act, no Member shall have any fiduciary duty to Series 12 or any Member.

IV.4 Good faith and fair dealing. In accordance with §109 of the DAO Act, Members are subject to the implied contractual covenants of good faith and fair dealing in respect of their interactions with Series 12 or any Member.

IV.5 Miscellaneous Obligations. It shall be the duty of each Member to act at all times consistently and in compliance with each of the provisions of this Agreement and with all policies in accordance with this Agreement.

ARTICLE V

ADMINISTRATION OF SERIES

V.1 Role of Master DAO. The Master DAO shall define via its own governance process, which asset the Series acquires and holds in its treasury. The Master DAO is allowed to charge operational fees to the Series, including a percentage-of-treasury formula. The fee is a service or operations fee and not a performance or investment management fee. The Master DAO acts solely as an administrative coordinator for the Series and does not serve as a manager, investment adviser, or fiduciary to the Series or its Members.

V.2 Authority of Members and Duly Authorized Agents to Bind Company. The Master DAO, solely in its limited capacity as administrator of the Series and not as a manager or fiduciary, shall have the exclusive authority to take actions on behalf of the Series that are strictly necessary to effectuate the Series' sole purpose of acquiring and holding the Assets in its treasury or anything incidental to this purpose. Members shall have no voting rights, management rights, or authority to participate in the control or operation of the Series and shall not be deemed agents of the Series for any purpose.

ARTICLE VI

ACCOUNTING AND RECORDS

VI.1 Required Records. The following records shall be kept and maintained at the Principal Place of Business or in the Smart Contracts referenced in this Agreement for a minimum of five (5) years, even where the Series has been dissolved or has otherwise ceased to exist, and in a manner that permits them to be made available for inspection within a reasonable time:

- a. A complete, reliable and up-to-date list of the name of each current and former Member or the unique Distributed Ledger identifier(s) attributable to each Member;
- b. A copy of this Agreement including all amendments thereto;

- c. Any meeting minutes, accounting records and financial statements of the Series;
- d. Separate and distinct records for Series 12 accounting for the Assets of Series 12;
- e. As long as actions and transactions of Series 12 take place on a distributed ledger, and where human readable explanations of those actions and transactions are publicly available for a period of five (5) years after the date the Series or Company is dissolved, in accordance with the DAO Act, there shall be no separate requirement to keep books of accounts and meeting minutes.

VI.2 No Separate Rights to Access Public Information. In accordance with §111 of the DAO Act, except for relevant government officials with reasonable grounds to investigate a violation of the laws of the Marshall Islands, no one shall have the right under the LLC Act to demand to separately inspect or copy records of Series 12, and it shall have no obligation to furnish any information to anyone concerning its activities, financial condition or other circumstances to the extent the information is publicly available on a distributed ledger or already publicly available such as on official online venues of the Series.

ARTICLE VII

DISSOCIATION OF A MEMBER

VII. Member Status Cessation. A person shall cease to be a Member upon the happening of any of the following events:

- i. the person's voluntary resignation or withdrawal of their status as a Member by either no longer meeting the prerequisite condition defined in Article III; or, the person has notified the Company in one or more of the Company's official online venues of the Member's instructions to withdraw their status as a Member and from what date; or
- ii. the person's involuntary immediate automatic withdrawal of their status as a Member, if the person is deemed a Restricted Person pursuant to Article VIII.

VII.2 No Distribution on Cessation of Member Status. Unless specified elsewhere, the voluntary resignation or withdrawal or involuntary removal or withdrawal of a person's Member status does not give rise to any right of a Member to a distribution of any property or economic resources that may be or become available to the Company.

ARTICLE VIII

ADMISSION OF ADDITIONAL MEMBERS

VIII.1 New Members. Any new Members may join pursuant to Article III.

VIII.2 Restrictions on Membership. It is the policy of the Company to comply with Marshall Islands sanctions regimes, including the United Nations Sanctions (Implementation) Act, 2020.

“Designated persons” subject to United Nations targeted financial sanctions regimes and listed on the UN Security Council Consolidated List (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>) are restricted from becoming or continuing as Members of the Company and shall not engage in any of the Company’s activities. Such sanctions require restrictions in dealing in assets, the making available of assets or financial or related services, or other restrictions related to such designated persons and entities. It is also the policy of the Company that residents of the embargoed countries and regions of Iran, Syria, Cuba, North Korea, and the Crimea, Donetsk, and Luhansk regions of the Ukraine, regulated by the U.S. Department of Treasury, Office of Foreign Assets Control (OFAC), are restricted from being Members and shall not engage in any of the Company’s activities (“**Restricted Person**”).

ARTICLE IX

DISSOLUTION

IX.1 Dissolution Events. The Company shall be dissolved and its affairs wound up in accordance with §114 of the DAO Act upon any of the events specified in §114(1) of the DAO Act.

IX.2 Dissolution Requirements. As soon as possible following the occurrence of any of the events specified in Article X.1 causing the dissolution of the Series, the Master DAO or authorized agent shall file Articles of Dissolution with the Registrar in the form prescribed by the Registrar or if there is no form prescribed in the manner prescribed in §102(3) and §5 of the BCA.

IX.3 Distribution to Members on dissolution. Upon dissolution and after settling all debts, the Series shall distribute to the Members in accordance with their Membership Interests any property or economic resources that may be or become available to the Company.

IX.4 Distribution to interested parties on dissolution. Upon a court order dissolving the Series following a successful petition from an interested party in accordance with §114(3) of the DAO Act and after the Series settles all debts, that interested party shall have a right to a distribution of any property or economic resources that may be or become available to the Company.

IX. 5 Effect of Cancellation of the Master DAO

- A. **Trigger Event.** In the event the Master DAO determines to dissolve, cancel, or otherwise cease operations for any reason (including insolvency) (the “Master Cancellation Event”), the Master DAO shall, prior to the filing of any certificate of cancellation of the Company, determine the status of this Series and all other Series.
- B. **Determination of Series Dissolution or Continuation.** As part of its winding up process, the Master DAO shall determine, in its administrative capacity, whether this Series and all other Series shall:

- (i) continue as an independent DAO LLC, subject to compliance with all applicable formation and registration requirements; or
- (ii) be dissolved and wound up in accordance with this Agreement.

- C. Continuation of Series.** If this Series is designated to continue, the Master DAO shall take such administrative actions as are reasonably necessary to facilitate the reorganization or re-registration of the Series as an independent DAO LLC, including coordination of required filings; provided that all applicable fees, costs, and third-party expenses associated with such continuation shall be borne by the applicable Series or its members.
- D. Dissolution of Series.** If this Series is designated for dissolution, the Series shall be wound up and its assets distributed in accordance with the provisions of this Agreement.
- E. Nominee Role.** For the avoidance of doubt, the nominee member shall have no authority or responsibility to make or influence any determination regarding the reorganization, dissolution, or cancellation of the Master DAO or any Series. However, the nominee member may in its ministerial capacity upon receipt of proper written authorization from the Master DAO execute and file required certificates (including certificates of dissolution and cancellation) with the registered agent or relevant authorities to implement such approved actions.

ARTICLE X

AMENDMENT

X.1 Amendment or Modification. This Agreement may be amended or modified from time to time pursuant to Article V.

X.2 Governance rules. Other governance rules may be introduced in accordance with Article V.

ARTICLE XI

DISPUTE RESOLUTION

XII.1 Dispute Resolution Process. Unless a different process is set out in other governance rules, in the event of a conflict or dispute between the parties under this Agreement, the following default dispute resolution process is to apply:

- A. The parties to the conflict shall negotiate in good faith to resolve the matter.
 - 1. The matter shall be submitted on www.Shiftrwa.xyz, redacting any confidential information as appropriate, to notify the Members of the nature of the dispute, as well as: the amount or range of any compensation or damages claimed;
 - 2. the amount of fees quoted by an independent person or authority to be appointed to oversee or arbitrate in full and final resolution of the dispute;
 - 3. whether funds for items (1) and (2) are requested to be met by any property or economic resources held by or available to the Company; and

4. the reasons why negotiations in good faith have not resolved the matter, and if used, why other dispute resolution mechanisms have not satisfactorily resolved the dispute; and
- B. if the dispute is not considered satisfactorily resolved by one or more of the parties to the dispute and after undertaking the processes in Article X.II.1.A, then a dispute arising out of or in connection with this Agreement shall be finally settled pursuant to subsection two (2) below.

XII.2 Alternative Dispute Resolution.

- A. Should a controversy, dispute, or claim arise between any Member out of or in relation to this Agreement ("**Dispute**"), such Members must give thirty (30) days notice of such Dispute to the Series and the relevant party (the "**Notice of Dispute**"). Should the Dispute not be resolved at the expiration of thirty (30) days after service of the Notice of Dispute, the relevant party may commence arbitration proceedings in accordance with Article XII.2.B below.
- B. Should the Dispute remain at the expiration of thirty (30) days after service of the Notice of Dispute, the Dispute shall be settled by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules (the "**Rules**"). The arbitration shall be seated in the Republic of the Marshall Islands and governed by the laws of the Republic of the Marshall Islands. The language of the arbitration shall be English. The arbitration shall be determined by a sole arbitrator to be appointed in accordance with the Rules. Any award or decision made by the arbitrator shall be in writing and shall be final and binding on the parties without any right of appeal, and judgment upon any award thus obtained may be entered in or enforced by any court having jurisdiction thereof. No action at law or in equity based upon any claim arising out of or related to this Agreement shall be instituted in any court of any jurisdiction.
- C. In the event that it is determined pursuant to this Article XII that a Member who is party to a Dispute (i) is in material breach of this Agreement, (ii) acts in material violation of any statutory requirements of the Republic of the Marshall Islands or the laws or regulations of any other applicable jurisdiction, or (iii) acts against the best interests of the Series, such determination shall be deemed a **Dissociation Event**, as defined in Article VIII, for such Member.

ARTICLE XII

MISCELLANEOUS PROVISIONS

XII.1 Entire Agreement. This Agreement represents the entire agreement among all the Members and between the Members and the Series and the Company.

XII.2 Governing Law. This Agreement is governed by and shall be construed in accordance with the laws of the Republic of the Marshall Islands without regard to the conflict of law principles thereof.

XII.3 Separability of Provisions. Each provision of this Agreement shall be considered separable, and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement that are valid, enforceable and legal.

XII.4 Indemnification. Subject to applicable laws and any restrictions set forth in this Agreement, the Series shall have the power to, indemnify and hold harmless any Member or other person from and against any and all claims and demands whatsoever.

XII.5 Hierarchy in Conflicting Company Documents. Where the underlying Certificate of Formation or this Agreement and any Smart Contract(s) are in conflict, the Certificate of Formation and the Agreement shall pre-empt any conflicting provisions of the Smart Contract, and as soon as reasonably practicable:

- prominent disclosure should be made in official online venues of the Series to ensure the conflict and the approach to resolving the conflict is communicated to Members; and
- proposals should be posted in the official online venues for consideration of the Smart Contract(s) to be upgraded to remediate the inconsistency and prevent further conflicts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

Series 12 – TSLA X2 SHIFT

By: MINS LLC, Authorized Representative Nominee Member of
Series 12, Robin Van Niekerk on behalf of MINS LLC

EXHIBIT A

SERIES INITIAL MEMBER:

<u>Member</u>	<u>Address/Digital Ledger Identifier</u>
Nominee Member - MINS LLC	Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, MH 96960