

**OPERATING AGREEMENT  
OF  
KCH ENTERPRISES, LLC**

The undersigned member, desiring to form a limited liability company under the Oregon Limited Liability Company Act, hereby agrees as follows:

**ARTICLE 1  
FORMATION**

**1.1 Name.** The name of the limited liability company ("LLC") is KCH ENTERPRISES, LLC.

**1.2 Articles of Organization.** Articles of Organization were filed with the Oregon Secretary of State on November 10, 2005.

**1.3 Duration.** The LLC's duration shall be perpetual.

**1.4 Principal Place of Business.** The principal office of the LLC shall initially be at 10355 Liberty Road South, Salem, Oregon 97306. The members may relocate the principal office or establish additional offices from time to time.

**1.5 Registered Office and Registered Agent.** The LLC's initial registered office shall be 10355 Liberty Road South, Salem, Oregon 97306, and the name of its initial registered agent at such address shall be Samantha Beam.

**ARTICLE 2  
MEMBERS, CONTRIBUTIONS, AND INTERESTS**

**2.1 Name and Address.** The name and address of the initial member of the LLC, the value of his initial capital contribution, and his percentage ownership are:

Name and Address:	Contribution:	Percentage:
Kevin C. Harrison 10355 Liberty Road South Salem, Oregon 97306.	\$5,000.00	100%

**2.2 Other Business of Members.** Any member may engage independently or with others in other business and investment ventures of every nature and description and shall have no obligation to account to the LLC for such business or investments or for business or investment opportunities.

**2.3 Additional Members.** Additional members shall not be admitted except upon the affirmative vote of a majority of the outstanding ownership interest in the company. Notwithstanding the foregoing, a person shall not become an additional member unless and until such person becomes a party to this Operating Agreement as a member by signing an admission agreement and executes such documents and instruments as the manager(s) may reasonably request as may be necessary or appropriate to conform such person as a member in the company and evidence such person's agreement to be bound by the terms and conditions hereof.

No additional member shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the company. The manager(s) may at the time an additional member is admitted close the company books (as though the company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to additional member for that portion of the company's tax year in which such member was admitted in accordance with the provisions of Section 706 (d) of the Code and the Regulations promulgated thereunder.

**2.4 Additional Contributions.** Additional capital contributions shall be accepted from existing members only if the manager(s) unanimously approve and set the maximum total amount of the additional capital contributions. If the manager(s) do so, the members shall have the opportunity (but not the obligation) to make such additional capital contributions on a pro rata basis in accordance with their ownership interests. If any member elects to make less than the member's pro rata share of any additional capital contributions, the others may contribute the difference on a pro rata basis in accordance with their ownership interest or on any other basis they may agree upon.

**2.5 No Interest on Capital Contributions.** No interest shall be paid on capital contributions.

**2.6 Capital Accounts.** An individual capital account shall be maintained for each member. Each member's capital account shall be (i) credited with all capital contributions by such member and the member's distributive share of all income and gain (including any income exempt from federal income tax); and (ii) charged with the amount of all distributions to such member and the member's distributive share of losses and deductions. Capital accounts shall be maintained in accordance with federal income tax accounting principles as set forth in Treas. Reg. §1.704-1(b)(2)(iv) or any successor provision.

### **ARTICLE 3 MEMBER MEETINGS**

**3.1 Meetings.** A meeting of members shall be held:

- (a) if it is called by the managers; or
- (b) if members holding at least fifty percent (50%) of the ownership interest sign, date, and deliver to the LLC's principal office a written demand for the meeting, describing the purpose or purposes for which it is to be held. Meetings of members shall be held at the principal office of the LLC or any other place specified in the notice of meeting.

**3.2 Notice of Meetings.** Notice of the date, time, and place of each members' meeting shall be given to each member not earlier than sixty (60) days nor less than ten (10) days before the meeting date. The notice must include a description of the purpose or purposes for which the meeting is called.

**3.3 Record Date.** The persons entitled to notice of and to vote at a members' meeting, and their respective ownership interest, shall be determined as of the record date of the meeting. The record shall be a date, not earlier than seventy (70) days nor less than ten (10) days before the meeting, selected by the managers. If the managers do not specify a record date, the record date shall be the date on which notice of the meeting was first mailed or otherwise delivered.

**3.4 Quorum.** The presence, in person or by proxy, of the managers and the members holding more than fifty percent (50%) of the ownership interests shall constitute a quorum.

**3.5 Proxies.** A member may be represented at a meeting in person or by written proxy.

**3.6 Voting.** On each matter requiring action by the members, each member shall be entitled to vote the member's ownership interest. Except as otherwise stated in the Articles of Organization, this Operating Agreement, or applicable law, a matter submitted to a vote of the members shall be deemed approved if it receives the affirmative vote of a majority of the outstanding ownership interest in the company.

### **ARTICLE 4 MANAGEMENT**

**4.1 Number and Qualification of a Manager.** As provided in the Articles of Organization, the LLC shall be managed by a single manager. In the event the Articles of Organization are amended to provide that the LLC shall be managed by more than one manager, the

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number of managers shall be the number elected by the members and acting as such from time to time, but shall not be less than one (1) nor more than three (3). Managers may be individuals or entities, and need not be members of the LLC.

**4.2 Election of Managers.** The initial manager shall be Kevin C. Harrison. Upon his resignation or removal, a replacement manager shall be elected at meetings of members called for the purpose of electing managers; the meeting notice must state that the purpose, or one of the purposes, of the meeting is election of managers. A manager shall serve for a term ending when the members next hold a meeting at which managers are elected, or until the manager's earlier death, resignation, or removal.

**4.3 Authority.** Subject to restrictions that may be imposed from time to time by the managers or members, each manager shall be an agent of the LLC with authority to bind the LLC in the ordinary course of its business. The managers shall have no authority to bind the LLC as to the following matters without first obtaining approval by vote of the members:

- (a) sale, lease, exchange, mortgage, pledge, or other transfer or disposition of all or substantially all the assets of the LLC;
- (b) merger of the LLC with another entity;
- (c) amendment to the Articles of Organization;
- (d) incurrence of indebtedness by the LLC other than in the ordinary course of business;
- (e) a transaction involving an actual or potential conflict of interest between a member or manager and the LLC; or
- (f) a change in the nature of the business of the LLC.

**4.4 Other Activities.** Managers may have other business interests and may engage in other activities in addition to those relating to the Company. This section does not change each manager's duty to act in a manner that the manager reasonably believes to be in the best interest of the LLC.

**4.5 Meetings; Notices; Quorum; Voting.** Meetings of the managers may be called by any manager. Meetings shall be held at the place fixed by the managers, or if no such place has been fixed, at the principal office of the LLC. Oral or written notice of the date, time, and place of any meeting shall be given at least twenty-four (24) hours in advance. Written notice may be delivered personally, given by facsimile or other form of wire communications, or by mail or private carrier, to each manager's business or home address. Written notice shall be effective at the earliest of the

following: (a) when received, (b) when sent by facsimile or other form of wire communication, or (c) two (2) business days after being mailed. A majority of the managers shall constitute a quorum. Each manager shall be entitled to one vote. A matter submitted to a vote of the managers shall be deemed approved if the votes in favor exceed those against the matter.

**4.6 Resignation.** A manager may resign at any time by delivering written notice to the other managers or to the members. The resignation is effective when the notice is effective under the Oregon Limited Liability Company Act, unless the notice specifies a later effective date. Once delivered, a notice of resignation is irrevocable unless revocation is permitted by the managers. The resignation of a manager who is also a member shall not affect the manager's rights as a member and shall not constitute a withdrawal of the member.

**4.7 Removal of Manager by Members.** The members may remove one or more managers with or without cause. A manager may be removed by the members only at a meeting called for the purpose of removing the manager and the meeting notice must state that the purpose, or the purposes, of the meeting is removal of the manager. A manager may only be removed by a vote of the members representing a majority of the ownership interests in the Company.

**4.8 Vacancy.** If a vacancy occurs in the number of managers:

- (a) the members may fill the vacancy; or
- (b) the remaining managers may fill the vacancy.

A vacancy that will occur at a specific later date may be filled before the vacancy occurs but the new manager may not take office until the vacancy occurs.

**4.9 Salaries.** The salaries and other compensations of the managers shall be fixed from time to time by vote of the members. A manager shall not be precluded from receiving a salary because the manager is also a member.

**4.10 Other Agents.** The manager may, by vote, authorize any agent to enter into any lawful contract or to otherwise act on behalf of the LLC. Such authority may be general or be confined to specific instances.

## **ARTICLE 5 ACTIONS WITHOUT NOTICE, WITHOUT MEETING, OR BY TELEPHONE**

**5.1 Meeting of all Members or Managers.** Notwithstanding any other provision of this Operating Agreement, if all of the members or managers shall hold a meeting at any time and place,

such meeting shall be valid without call or notice, and any lawful action taken at such meeting shall be the action of the members or managers, respectively.

**5.2 Action Without Meeting.** Any action required or permitted to be taken by the members or the managers at a meeting may be taken without a meeting if a consent in writing, describing the action taken, is signed by members holding a majority of the outstanding ownership interest or by all of the managers, as the case may be, and is included in the resolutions and filed with the LLC's records of meetings.

**5.3 Meetings by Telephone.** Meetings of the members or managers may be held by conference telephone or by any other means of communication by which all participants can hear each other simultaneously during the meeting, and such participation shall constitute presence in person at the meeting.

## **ARTICLE 6 ACCOUNTING AND RECORDS**

**6.1 Books of Account.** The LLC's books and records, a register showing the names, addresses, and ownership interests of the members and this Operating Agreement shall be maintained by the managers. Each member shall have access thereto at all reasonable times. The managers shall keep books and records of the operation of the LLC which are appropriate and adequate for the LLC's business and for the carrying out of this agreement.

**6.2 Accounting Year/Method of Accounting.** The accounting year of the LLC shall be a calendar year, and the books of the LLC shall be maintained on a cash basis.

**6.3 Accounting Reports.** Within ninety (90) days after the close of each year, the managers shall cause each member to receive an unaudited report of the activities of the LLC for the preceding fiscal year, including a copy of a balance sheet of the LLC as of the end of such year and a statement of income or loss for such year.

**6.4 Tax Returns.** The managers shall cause all required federal and state income tax returns for the LLC to be prepared and timely filed with the appropriate authorities. Within ninety (90) days after the end of each calendar year, each member shall be furnished a statement suitable for use in the preparation of the member's income tax return, showing the amounts of any distributions, contributions, gains, losses, profits, or credits allocated to the member during such calendar year.

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## **ARTICLE 7 ALLOCATIONS AND DISTRIBUTIONS**

**7.1 Allocations of Income and Loss for Tax Purposes.** All items of income, gain, loss, deduction, and credit shall be allocated among all members in proportion to their capital account balances.

**7.2 Distributions to Pay Tax Liabilities.** Within ninety (90) days after the end of each calendar year, the LLC shall make a distribution in an amount equal to at least

- (a) the LLC's net taxable income during the calendar year multiplied by
- (b) the lesser of
  - (i) forty-five percent (45%) or
  - (ii) the sum of the maximum federal and state individual income tax rates of any member in effect for the calendar year (taking into account the deductibility of state taxes for federal income tax purposes), less
- (c) the amount of any distribution made by the LLC during the calendar year (other than distributions made during the calendar year that were required to be made under the provisions of this section with respect to a prior calendar year.)

For purposes of this section, the LLC's net taxable income shall be the net excess of items of recognized income and gain over the items of recognized loss and deduction reported on the LLC's federal income tax return for the taxable year with respect to which the distribution is being made. The LLC's obligation to make such a distribution is subject to the restrictions governing distributions under the Oregon Limited Liability Company Act.

## **ARTICLE 8 TRANSFER OF INTEREST**

**8.1 Restriction on Transfers.** Except as otherwise permitted by this agreement, no member or assignee shall transfer all or any portion of such person's interest in the company. In the event that any member or assignee pledges or otherwise encumbers any of such person's interest in the company as security for the payment of a debt, any such pledge or hypothecation shall not constitute a transfer but shall only be made pursuant to a pledge or hypothecation agreement that requires the pledgee or secured party to be bound by all of the terms and conditions of this Operating Agreement.

**8.2 Permitted Transfers.** A member or assignee may at any time transfer all or any portion of such person's interest in the company to:

- (a) any other member;
- (b) any member of the transferor's family;
- (c) any affiliate of the transferor;
- (d) the transferor's executor, administrator, trustee, or personal representative to whom such interests are transferred at death or involuntarily by operation of law; or
- (e) any purchaser in accordance with Section 8.3.

"Affiliate" shall mean, with the respect to any person:

- (a) any person directly or indirectly controlling, controlled by or under common control with such person;
- (b) any person owning or controlling ten percent (10%) or more of the outstanding voting interests of such person;
- (c) any officer, director, or manager of such person; or
- (d) any person who is an officer, director, manager, trustee, or holder of ten percent (10%) or more of the voting interests of any person described in clauses (a) through (c) of this paragraph.

For purposes of this definition, the term "controls", "is controlled by", or "is under common control with" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise.

**8.3 Right of First Refusal.** In addition to the other limitations and restrictions set forth in this Article 8, except as permitted by Section 8.2 hereof, no member shall transfer all or any portion of such person's interest in the company unless such member first offers to sell the offered interest to the remaining members.

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#### **8.4 Rights and Obligations of Assignees and Assignors.**

(a) An assignment of a person's interest in the company does not itself dissolve the company or entitle the assignee to become a member or exercise any management rights. A person who acquires a person's interest in the company but who is not admitted as a member shall be entitled only to the economic rights with respect to such interests, and shall have no right to any information or accounting of the affairs of the company, and shall not be entitled to inspect the books or records of the company.

(b) A member's assignment of an interest in the company shall not cause the member to cease to be a member or have the power to exercise the management rights associated with the member's membership interest, and an assignee has no liability as a member solely as a result of the assignment.

### **ARTICLE 9 CESSATION OF MEMBER**

**9.1 Cessation.** A person shall cease to be a member upon the happening of any of the following events:

- (a) the withdrawal of a member pursuant to Section 10.1;
- (b) the expulsion of a member pursuant to Section 9.2;
- (c) the bankruptcy of a member;
- (d) in the case of a member who is a natural person, the death of the member or the entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage the member's personal estate;
- (e) in the case of a member who is acting as a member by virtue of being trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);
- (f) in the case of a member that is a separate entity other than a corporation, the dissolution and commencement of winding up of the separate entity;
- (g) in the case of a member that is a corporation, the filing of articles of dissolution or its equivalent, for the corporation or the revocation of its charter;
- (h) in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the company; or

- (i) transfer of a member's membership interest together with an acceptance of the transferee as a new member.

**9.2 Expulsion.** A member may be expelled from the company upon a determination by the managers that the member has been guilty of wrongful conduct that adversely and materially affects the business or affairs of the company, or has willfully and persistently committed a material breach of the articles of this agreement, or otherwise breached a duty owed to the company or the other members, to the extent that it is not reasonably practicable to carry on the business or affairs of the company with the members. An expelled member shall be treated as having withdrawn voluntarily from the company in breach of this agreement on the date of the manager's determination.

## **ARTICLE 10 WITHDRAWAL AND DISSOLUTION**

**10.1 Withdrawal.** Each member agrees not to withdraw from the LLC without the consent of all other members. A voluntary withdrawal in violation of this section shall be effective after six (6) months' written notice delivered to the managers, but shall constitute a breach of this Operating Agreement for which the LLC and other members shall have the remedies provided under applicable law.

**10.2 Events of Dissolution.** Except as otherwise provided in this Operating Agreement, the LLC shall dissolve upon the earlier of:

- (a) the time, if any, for dissolution specified in the Articles of Organization;
- (b) the death, incompetence, withdrawal, expulsion, bankruptcy, or dissolution of any member; or
- (c) approval of dissolution by a vote of the members.

**10.3 Effect of Death of a Member.** In the event of the death of a member, the remaining members may within one hundred twenty (120) days elect to:

- (a) continue the LLC and admit the deceased member's spouse, estate or other beneficiary as a member in place of the deceased member; or
- (b) dissolve the LLC; or
- (c) continue the LLC among the surviving members and purchase the interest of the deceased member pursuant to the provisions of Sections 10.6 and 10.7.

The election shall be at the sole discretion of the surviving members and shall require their unanimous consent. If the surviving members do so elect, the LLC shall be dissolved.

**10.4 Effect of Withdrawal or Other Event.** Upon the incompetence, withdrawal, expulsion, bankruptcy, or dissolution of a member, the remaining members may within one hundred twenty (120) days, without waiving any remedies in the case of voluntary withdrawal, elect to continue the LLC among themselves and to purchase the interest of the affected member pursuant to the provisions of Section 10.6 and 10.7. The election shall be at the sole discretion of the remaining members and shall require their unanimous consent. If the remaining members do not so elect, the LLC shall be dissolved.

**10.5 Liquidation upon Dissolution and Winding Up.** Upon the dissolution of the LLC, the managers shall wind up the affairs of the LLC. A full account of the assets and liabilities of the LLC shall be taken. The assets shall be promptly liquidated and the proceeds thereof applied as required by the Oregon Limited Liability Act. With approval by vote of the members, the LLC may, in the process of winding up the LLC, elect to distribute certain property in kind. Distributions to members, after all liabilities have been paid, shall be made in accordance with their capital account balances.

**10.6 Valuation of Member's Interest.** Upon the election by the LLC to purchase the interest of a member pursuant to Section 10.3 or 10.4, the value of the affected member's interest shall be determined by multiplying the member's percentage ownership interest by the fair market value of all LLC assets. The fair market value of the LLC assets shall be determined by agreement between the remaining members (acting by vote) and the affected member or the affected member's personal representative. In the event agreement as to such value cannot be obtained, the LLC assets shall be valued by a third party appraiser acceptable to both the LLC and the affected member or the affected member's personal representative.

**10.7 Payment for Member's Interest.** The purchase price for a member's interest purchased pursuant to Section 10.3 or 10.4 shall be paid in sixty (60) substantially equal, consecutive monthly payments, including principal and interest. Interest shall accrue at the prime rate in effect on the date of the event giving rise to the election to purchase as quoted by the *Wall Street Journal* or, if that publication becomes unavailable, another reputable source chosen by vote of the members. The first payment shall be made not later than ninety (90) days following such date. The LLC may prepay the remaining amount of the purchase price at any time.

**10.8 Effect of Purchase of Member's Interest.** A member shall cease to be a member upon the LLC's election to purchase the member's interest pursuant to Section 10.3 or 10.4. During the period in which the LLC is making payments to the former member, the former member shall have no rights as a member in the LLC.

## **ARTICLE 11 INDEMNIFICATION**

**11.1 Indemnification.** The LLC shall indemnify each of its managers to the fullest extent permissible under Oregon Law, as the same exists or may hereafter be amended, against all liability, loss and costs (including, without limitation, attorney fees) incurred or suffered by such person by reason of or arising from the fact that such person is or was a manager of the LLC, or is or was serving at the request of the LLC as a manager, director, officer, partner, trustee, employee, or agent of another foreign or domestic limited liability company, corporation, partnership, joint venture, trust, benefit plan, or other enterprise. The LLC may, by action of the members or managers, provide indemnification to employees and agents of the LLC who are not exclusive of any other rights to which any person may be entitled under any statute, bylaw, agreement, resolution of members or managers, contract or otherwise.

**11.2 Limitation of Liability.** Managers of the LLC shall not be liable to the LLC or its members for monetary damages for conduct as managers except to the extent that the Oregon Limited Liability Company Act, as it now exists or may hereafter be amended, prohibits elimination or limitation of manager liability. No repeal or amendment of this section or of the Oregon Limited Liability Company Act shall adversely affect any right or protection of a manager for actions or omissions prior to the repeal or amendment.

## **ARTICLE 12 AMENDMENTS**

**12.1 By Members.** The members may amend or repeal the provisions of this Operating Agreement by unanimous agreement set forth in writing or by action taken at a meeting of members called for that purpose. This Operating Agreement may not be amended or repealed by oral agreement of the members.

**12.2 By Managers.** The managers may not amend or repeal the provisions of this Operating Agreement.

## **ARTICLE 13 MISCELLANEOUS**

**13.1 Additional Documents.** Each member shall execute such additional documents and take such actions as are reasonably requested by the managers in order to complete or confirm the transactions contemplated by this Operating Agreement.

**13.2 Arbitration.** Any dispute among the members or among the members and the LLC concerning this Operating Agreement shall be settled by arbitration before a single arbitrator, using

the rules of commercial arbitration of the Arbitration Service of Portland. Arbitration shall occur in Salem, Oregon. The parties shall be entitled to conduct discovery in accordance with the Federal Rules of Civil Procedure, subject to limitation by the arbitrator to secure just and efficient resolution of the dispute. If the amount in controversy exceeds \$10,000.00, the arbitrator's decision shall include a statement specifying in reasonable detail the basis for and computation of the amount of the award, if any. A party substantially prevailing in the arbitration shall also be entitled to recover such amounts for its costs and attorney fees incurred in connection with the arbitration as shall be determined by the arbitrator. Judgment upon the arbitration award may be entered in any court having jurisdiction. Nothing herein, however, shall prevent a member from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

**13.3 Governing Law.** This Operating Agreement shall be governed by Oregon law.

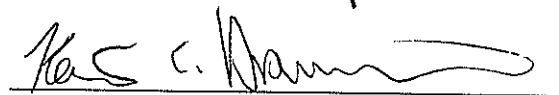
**13.4 Headings.** Headings in this Operating Agreement are for convenience only and shall not affect its meaning.

**13.5 Severability.** The invalidity or unenforceability of any provisions of this Operating Agreement shall not affect the validity or enforceability of the remaining provisions.

**13.6 Gender.** Any indication of gender of a party in this Agreement shall be modified, as required, to fit the gender of the party or parties in question.

**13.7 Third-Party Beneficiaries.** The provisions of this Operating Agreement are intended solely for the benefit of the members and shall create no rights or obligations enforceable by any third party, including creditors of the LLC, except as otherwise provided by the applicable law.

**ADOPTED** as of this 10<sup>th</sup> day of November, 2005, by the undersigned, constituting the initial member of KCH ENTERPRISES, LLC.

  
Kevin C. Harrison

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