

OPERATING AGREEMENT

of

MWSH West Salem LLC

**OPERATING AGREEMENT
OF**

MWSH West Salem LLC,
an Oregon limited liability company

The undersigned Members, pursuant to the Oregon Limited Liability Company Act, hereby agree as follows:

**ARTICLE 1
FORMATION**

1.1 Name. The name of the limited liability company (“**LLC**” or “**Company**”) is MWSH West Salem LLC.

1.2 Articles of Organization. The Articles of Organization of LLC were filed with the Oregon Secretary of State on January 27, 2015.

1.3 Effective Date. This Operating Agreement (“**Operating Agreement**” or the “**Agreement**”) of LLC is adopted effective May 1, 2015.

1.4 Federal Employee Identification Number. The federal employee identification number (EIN) assigned to LLC is 46-4624883.

1.5 Duration. LLC shall continue until terminated as provided in this Agreement or until terminated as provided under the laws of the state in which it was formed.

1.6 Definitions. In this Agreement the following terms shall have the following meanings:

1.10.1 Improvements means everything that has been added to or constructed on the Property which adds to the value or appearance of the Property, including but not limited to all utilities, sidewalks, curbs, parking lots, driveways, buildings, fixtures, equipment, and landscaping.

1.10.2 Initial Contribution means the agreed net value of a tangible asset or intangible asset contributed by a Member to the LLC.

1.10.3 Majority of the Members means the decision voted on requires the affirmative vote of Members of LLC owning more than 50% of the Membership Interests. “Majority of the Membership Interests” has the same meaning.

1.10.4 Member shall mean any individual person or entity who owns a Membership Interest in LLC.

1.10.5 Membership Interest means the total number of Membership Units controlled by a Member or Assignee of a Member.

1.10.6 Membership Unit means the smallest portion of ownership available in the LLC.

1.10.7 Non-Preferred Member means a Member who owns Non-Preferred Membership Units as described in Section 2.1.2.

1.10.8 Percentage Interest means the ratio of the Membership Interests owned by a Member which shall be determined by dividing the number of Membership Units owned by a Member by the total number of units issued by the LLC.

1.10.9 Permanent Financing means date when LLC pays the construction loans and gap or bridge loans and other loans related to the Property, including loans made under any cash flow commitment in full with funds from a new lending source, having a repayment term or letter of credit term of more than 7 years.

1.10.10 Preferred Member means a Member owning Preferred Membership Units as described in Section.

1.10.11 Project means the Property and Improvements and general purpose of LLC.

1.10.12 Property shall mean the real property described in Exhibit 1.10.

1.10.13 Service Members means a Member owning Service Membership Units as described in Section.

1.10.14 Stabilized Occupancy means the point in time when the average occupancy of the Project has been 90% or more for a continuous period of 90 days.

1.10.15 Super Majority of the Members means the decision voted on requires the affirmative vote of Members owning more than 75% of the Membership Interests. "Super Majority of Membership Interests" has the same definition.

1.7 Principal Place of Business. The principal office of LLC is located at 3425 Boone Road SE, Salem, Oregon 97317. The Manager(s) may relocate the principal office or establish additional offices from time to time in the Manager(s) sole and absolute discretion.

1.8 Registered Office and Registered Agent. LLC's registered office initially shall be at 285 Liberty Street NE, Salem, OR 97301, and the name of its registered agent is Corporation Service Company. The Manager may change the location of the registered office and the registered agent from time to time, in the Manager's sole and absolute discretion.

1.9 Management of LLC. LLC shall be managed by a Manager or Managers.

1.10 Purposes and Powers. The purpose of the LLC is to acquire the real property described in Exhibit 1.10, to construct Improvements thereon designed for the operation of a senior housing community, and to lease the Property to a related entity known as Bonaventure of

Medford LLC, (“**LLC’s Tenant**”). The LLC shall be a single purpose entity; provided, however that the LLC may have more than one asset and may engage in any lawful business permitted under the laws of the jurisdiction in which the LLC is organized.

1.11 Title to Property. All LLC property shall be owned by LLC as an entity, and each Member’s interest in LLC shall be personal property for all purposes. LLC shall hold all LLC property in the name of LLC and not in the name or names of any Member or Members.

1.12 Structure of Transaction. It is understood that all present and future Members of this LLC have had the opportunity to review estimates relating to the value of the Property and the estimated income and expenses of the Property and understand the risk factors arising out of a Membership in the LLC. All of these projections, estimates, and risk factors are subject to change for various reasons, including but not limited to, changes in the size of the Property, changes in interest rate, market conditions, costs of construction, and operating costs. LLC may own the Property, or LLC may own an undivided percentage interest in the Property.

ARTICLE 2

MEMBER CONTRIBUTIONS AND INTERESTS

2.1 Membership Classes. The three potential classes of Members in LLC will be Preferred Members, Service Members and Non-preferred Members (as defined below). A Member may be a Preferred Member as to some Membership Interests, a Service Member as to other Membership Interests, and a Non-preferred Member as to additional Membership Interests.

2.1.1 “Preferred Members” are generally Members who have contributed tangible assets, including but not limited to cash, personal property, and/or real property to the LLC in exchange for Membership Interest as specified in this Agreement. Each Preferred Member will execute an Investor Representation Agreement and a Joinder Agreement pursuant to which each Preferred Member agrees to make a contribution of tangible assets to the LLC in exchange for Preferred Membership Interests in LLC and agrees to abide by and be subject to the terms and conditions of this Operating Agreement. Preferred Members shall receive a preference in the disbursement of available distributable cash as provided in this Operating Agreement. Upon liquidation, each Preferred Member shall receive a preference in the distribution of cash or property of the LLC as provided in this Operating Agreement. Upon the admittance of each Preferred Member to LLC, **Exhibit 2.1.1** shall be amended to specify each Preferred Member’s identity, Initial Contribution, Capital Account, Date of Admission, Percentage Interest, and Number of Membership Units.

2.1.2 “Service Members” are generally members who will perform services for the LLC and are being issued Membership Units pursuant to a Grant Agreement, Rev. Proc. 93-27 and Rev. Proc. 2001-43 and, except as specifically provided herein, shall receive no preference in disbursements of distributable cash or on liquidation. Each Service Member shall execute an Investor Representation Agreement and/or a Grant Agreement under the 2014 Service Member Equity Incentive Plan and a Joinder Agreement, pursuant to which each Service Member agrees to perform services for the LLC and agrees to abide by and be subject to the terms and conditions of this Operating Agreement. Upon the admittance of each Service Member to the LLC, **Exhibit**

2.1.2 shall be amended to specify each Service Member's identity, Capital Account, Date of Admission, Percentage Interest, and number of Membership Units.

2.1.3 "Non-preferred Members" are generally Members who have contributed intangible assets to LLC in exchange for Membership Interests and except as specifically provided herein, shall receive no preference in disbursements of distributable cash or on liquidation. Each Non-Preferred Member shall execute this Operating Agreement and/or any restatement hereof pursuant to which each Non-Preferred Member agrees to make a contribution of intangible assets to LLC in exchange for Membership Interests in LLC. The attached **Exhibit 2.1.3** shall specify each Non-Preferred Member's identity, Capital Account, Date of Admission, Percentage Interest, and Number of Membership Units.

2.2 Date of Admission of Preferred Members. Preferred Members will become Members of LLC at the time previously agreed to in writing by the parties or, in the event the parties did not previously agree to the date of admission, then the Manager, in Manager's sole and absolute discretion, shall select such date as the Manager deems appropriate.

Preferred Members Percentage Interest. The Percentage Interest of each Preferred Member will be adjusted upon the admission of additional Members.

2.3 Date of Admission of Service Members. Manager, on behalf of LLC, in Manager's sole and absolute discretion and, if applicable, in accordance with the 2014 Service Member Equity Incentive Plan and any Grant Agreements entered into thereunder, will determine the date that a Service Member becomes a Member of LLC.

2.4 Service Members Percentage Interest. A Service Member may become a Member of LLC upon the issuance of Service Membership Units; provided, however, that the final Percentage Interest and number of Service Membership Units of each Service Member shall be determined in accordance with the 2014 Service Member Equity Incentive Plan and any Grant Agreements entered into thereunder. In addition, the Percentage Interest of each Service Member will be adjusted upon the admission of additional Members.

2.5 Date of Admission of Non-Preferred Members. Generally the Non-Preferred Members are the initial Members of this LLC.

2.6 Non-Preferred Members Percentage Interest. The Percentage Interest of the Non-Preferred Member shall be 100% reduced by the aggregate Percentage Interest of all Preferred Members and further reduced by the aggregate Percentage Interest of all Service Members. The Percentage Interest of each Non-Preferred Member will be adjusted upon the admission of additional Members.

2.7 No Certificates for Membership Interests. All Membership Units will be uncertificated.

2.8 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 LLC or its Members or Manager(s) for such business or investments or for business or investment opportunities. A Member who is not also a Manager owes no

duties to LLC or the other Members solely by reason of being a Member as provided in Appendix 2.6.

2.9 Additional Contributions. At any time prior to Permanent Financing, and/or prior to Stabilized Occupancy, the Manager, in the Manager's sole and absolute discretion may, on behalf of the LLC:

2.9.1 Enter into Convertible Debt Agreements or other loan agreements with potential Preferred Members pursuant to which Preferred Membership Interests may be issued;

2.9.2 Sell undivided fractional interests in the Property to potential Preferred Members pursuant to Tenants-in-Common Agreement;

2.9.3 Enter into option agreements with potential Preferred Members under which they have the right to acquire Preferred Membership Interests;

2.9.4 Enter into agreements with potential Service Members, including Grant Agreements under the 2014 Service Member Equity Incentive Plan, pursuant to which a Service Member may be issued Service Membership Interests in the LLC; and

2.9.5 Cause LLC to accept intangible or tangible contributions in exchange for Non-Preferred Membership Interests.

2.10 Capital Accounts. LLC shall maintain capital accounts in accordance with the traditional method with respect to each member in accordance with the rules found in Treas. Reg. § 1.704-1(b). In the event that the Manager determines that it is prudent to modify the manner in which the vested capital accounts or any debit or credit thereto is computed in order to comply with such Treas. Reg. , Manager may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to the distribution provisions of this Agreement upon dissolution of the LLC. The Manager may also make appropriate modifications when it appears that unanticipated events (for example, the existence of an LLC election pursuant to Code Section 754) might otherwise cause this Agreement not to comply with the Treas. Reg. § 1.704-1(b). Manager shall not make adjustments to the capital accounts of the Members which would cause the Membership Interests of Service Members to not comply with the provisions of Rev. Proc. 93-27 and/or Rev. Proc. 2001-43.

The foregoing provisions of this Section 2.10 and the other provisions of this Agreement are intended to comply with Treas. Reg. § 1.704-1(b), and must be interpreted and applied in a manner consistent with such Treas. Reg.. In the event that the Manager determines that it is prudent to modify the manner in which the adjusted capital accounts, or any debit or credit thereto, is computed in order to comply with such Treas. Reg. , the Manager may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member of any member upon the dissolution of the LLC as provided in this Agreement. The Manager may also make any appropriate modifications in the event it appears that unanticipated events (for example, the existence of an LLC election pursuant to Code Section 754) might otherwise cause this Agreement not to comply with Treas. Reg. § 1.704-1(b).

2.9.1 The Internal Revenue Service has issued Notice 2005-43 (“Notice”), proposing a safe harbor election for the transfer of partnership interests. The Notice states that once the proposed regulation becomes finalized, it will make obsolete the provisions of Rev. Proc. 93-27 and Rev. Proc. 2001-43. Upon the date of finalization of that Notice, the revenue procedure created by that Notice will become applicable to the LLC and its Members.

2.9.2 The Members of the LLC agree that when the proposed revenue procedure contained in Notice 2005-43 is finalized by the Internal Revenue Service, the LLC will be authorized to elect the safe harbor contained in the finalized revenue procedure. The Members of the LLC further agree that all Members will comply with the requirements of the safe harbor as described in the finalized revenue procedure.

2.10 Revaluations of Property.

2.10.1 Subject to Section 2.10.2, the Capital Accounts of the Members will be increased or decreased to reflect a revaluation of Company property – including intangible assets such as goodwill – on the Company’s books upon the occurrence of any of the following events:

2.10.1.1 a contribution of money or other property – other than a de minimis amount – to the Company by a new or existing Member as consideration for Units;

2.10.1.2 a distribution of Company property – other than a de minimis amount – by the Company to a Member as consideration for Units;

2.10.1.3 the issuance of Units to Service Members; or

2.10.1.4 the liquidation of the Company.

2.10.2 Adjustments to Capital Accounts under this Section 2.10.1 may be made only if:

2.10.2.1 the adjustments are based on the fair market value of Company property – taking IRC § 7701(g) into account – on the date of adjustment;

2.10.2.2 the adjustments reflect the manner in which the unrealized income, gain, loss, or deduction inherent in such property – that has not been reflected in the Capital Accounts previously – would be allocated among the Members if there were a taxable disposition of such property for such fair market value on that date;

2.10.2.3 the Members’ Capital Accounts are adjusted in accordance with Treas Reg § 1.704-1(b)(2)(iv)(g) for allocations to them of depreciation, depletion, amortization, and gain or loss, as computed for book purposes, with respect to such property; and

2.10.2.4 the Members’ distributive shares of depreciation, depletion, amortization, and gain or loss, as computed for tax purposes, with respect to such property will be determined so as to take account of the variation between the adjusted tax basis and book value of such property in the same manner as under IRC § 704(c) and Treas Reg § 1.704-1(b)(4)(i).

ARTICLE 3 MEMBER MEETINGS

3.1 Annual Meeting. An annual meeting of the Members may be held at a time, date and place specified by the Manager(s) and communicated by notice to the Members. At such annual meeting, the Members shall transact all business which is properly brought before the meeting.

3.2 Special Meetings. A special meeting of the Member(s) shall be held if the Manager(s) requests such meeting by providing notice of the time, date, place and purpose of the meeting to the Members. A special meeting of the Members shall be held if any Member, or group of Members, owning more than 25% of the Percentage Interests of all Members request(s) such meeting by signing, dating and delivering to LLC's registered office, a written demand for the meeting, which describes the purpose or purposes for which such meeting is to be held ("**Member-Requested Special Meeting**"). All special meetings shall be held at a time, date and place designated by the Manager(s) specified in the notice of the special meeting prepared by the Manager(s). In the event of a Member-Requested Special Meeting, the Manager(s) shall set the date of such meeting not more than 30 days after receiving notice of the Member's request.

3.3 Notice of Meeting. Notice of the time, date and place of each Member meeting shall be mailed to each Member not earlier than 60 days or less than 10 days before the meeting date. The notice must include a description of the time, date, place and purpose for which the meeting is called.

3.4 Record Date. The persons entitled to notice of and to vote at a Member meeting and their respective Membership Interests shall be determined on the date on which the notice of the meeting was first mailed or otherwise delivered to Members (the "**Record Date**").

3.5 Quorum. The presence, in person or by proxy, of Members owning more than 50% of the Membership Interests on the Record Date shall constitute a quorum. There must be a quorum to conduct a meeting.

3.6 Proxies. A Member may be represented at a meeting by a person or an entity holding such Member's written proxy.

3.7 Voting. Except as specifically provided in this Agreement, the proportional voting power of each Member is equal to the Percentage Interest of that Member in the LLC. If any contractual obligation of LLC with a lender or other third party requires that any one or more of the Members own 50% or more of the voting control of the Members of the LLC, then such Member or Members are hereby granted the required Percentage Interests for voting purposes, and the remaining Percentage Interests for voting purposes shall be divided pro rata among the other Members in proportion to the other Members' respective Percentage Interests.

3.8 Meeting of all Members. Notwithstanding any other provision of this Operating Agreement, if all of the Members 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.

3.9 Action without Meeting. Any action required or permitted to be taken by the Members at a meeting may be taken without a meeting if a consent in writing, describing the action taken, is signed by Members with the required Percentage Interest to approve the action taken and is included in the minutes or filed with LLC's record of meetings.

3.10 Meetings by Telecommunication. Meetings of the Members may be held by telephone conference or by any other means of communication by which all participants can communicate with each other simultaneously during the meeting, and such participation shall constitute presence in person at the meeting.

3.11 Actions Requiring Majority Vote of Members. The following actions require the approval of a Majority of the Members:

3.11.2 Selling all or substantially all of LLC's assets;

3.11.3 Amending, restating or repealing the Articles of Organization or this Operating Agreement;

3.11.4 Electing a Manager;

3.11.5 Allowing LLC to loan LLC funds to a Member or entity owned by a Member;

3.11.6 Merging LLC with another entity; and

3.11.7 Any transaction involving an actual material and substantial conflict of interest between and/or among the Manager(s), a Member(s) and the LLC.

3.12 Actions Requiring Unanimous Vote of Members. The following actions require the unanimous approval of the Members:

3.12.2 Except as specifically provided in this Agreement, borrowing funds from any person or entity which requires the personal guarantee of one or more Member(s) who is/are unwilling to provide a personal guarantee; and

3.12.3 Requiring additional capital contributions.

ARTICLE 4 MANAGEMENT

4.1 Management by Manager(s). LLC shall be managed by one or more Managers who shall be elected by the affirmative vote of a Majority of the Members. The Manager(s) shall not be compensated for serving as Manager(s) unless otherwise agreed by a Majority of the Members; provided however, that Manager(s) may be reimbursed for Manager's(s) reasonable expenses incurred in the performance of Manager's duties as Manager of LLC. Nothing herein shall preclude the Manager(s) from owning an interest in any business or businesses with which LLC contracts for services at reasonable rates. The Manager(s), and the Non-Preferred Member(s) are expected to own interests in businesses which may contract with LLC and/or with

the Tenant of LLC. Specifically, and without limitation, Members hereby agree and stipulate that it is reasonable and acceptable for Mountain West Retirement Corporation (“MWRC”) as the Manager of the operations of LLC’s Tenant of the Property for an initial term of 15 years and a renewal term of an additional five years to receive a management fee of up to 7% of the gross cash collected by the Tenant of the Property during each calendar month of the term of the Management Services Agreement between MWRC and LLC’s Tenant.

4.2 Initial Manager(s). The initial manager of LLC is Mountain West Senior Housing LLC, an Oregon limited liability company dba Bonaventure Senior Housing.

4.3 Removal of Manager by Members. By affirmative vote of a Majority of the Members, the Members, in each Member’s sole and absolute discretion, may remove one or more Managers. In the event of the removal, resignation, or termination of one or more Managers, the remaining Manager(s), if any, shall serve as Manager of LLC. In the event of the removal, resignation, or termination of a sole Manager or all of the Managers, a replacement Manager must be elected by an affirmative vote of a Majority of the Members pursuant to Section 3.11.4. However, in the event the Members fail to elect a new Manager, the selection of a new Manager shall be determined as provided in Section 11.2 of this Agreement relating to Dispute Resolution as though there were a deadlock. If at any time there is no Manager serving, then the Non-Preferred Members shall select a Manager until such time as the Members have elected a new Manager as provided in this Agreement.

4.4 Election of Managers. Once properly elected, a Manager(s) shall serve until the Manager’s death, resignation, removal, or such time as a substitute Manager(s) is properly elected by the Members.

4.5 Manager(s) Powers. All Manager(s) have the right to participate in the management of the LLC. If there is only one Manager, the Manager has the authority to make all decisions relating in any way to LLC, except decisions requiring the approval of the Members as provided in this Agreement. If more than one Manager is serving, the Managers owning a majority of the Percentage Interests owned by the Managers shall have the authority to bind LLC and make decisions regarding LLC, except decisions requiring approval of the Members as provided in this Agreement. In no event shall the Manager(s) make any decision relating to a matter which requires approval of the Members as provided in this Agreement. In instances where the Manager(s) cannot approve or disapprove of a particular action because of a deadlock, the issue shall be resolved according to the Dispute Resolution provisions of this Agreement at Section 11.2 hereof.

4.6 Borrowing. Managers are authorized to borrow funds and grant security interests and assets to secure repayment of LLC’s indebtedness. The Manager(s) may borrow funds on behalf of the LLC from all or any Members and in such case, the LLC will pay interest at the rate that the LLC would be charged by an institutional lender under an unsecured line of credit in the amount of the loan being made, as determined by the Manager.

4.7 Other Business of Managers. Any Manager may engage independently or with others in other businesses and investment ventures of every nature and description and shall have no obligation to account to LLC or its Members or other Manager(s) for such business(es) or

investments or for the business(es) or investments opportunities, as more specifically set forth in Appendix 2.6.

4.8 Meetings. If more than one Manager is serving in the capacity of Manager of the LLC, the Managers may hold meetings at such place and time as is agreed upon by the Managers. No written notice of such meeting is necessary.

4.9 Vacancy. If a vacancy occurs in the office of the Manager(s), the vacancy shall be filled by approval of a Majority of the Members.

ARTICLE 5

ACCOUNTING AND RECORDS

5.1 Books of Account. LLC's books and records, a register showing the names, addresses, and Percentage Interests of the Members, and a copy of this Operating Agreement shall be maintained at the principal office of LLC. Each Member shall have access thereto at all reasonable times following advance notice to the Manager(s). The Manager(s) shall keep books and records of the operation of LLC which are appropriate and adequate for LLC's business and for the carrying out of this Agreement. Accounting records shall be kept in accordance with a comprehensive income tax basis of accounting.

5.2 Fiscal Year. The fiscal year of LLC shall be the calendar year.

5.3 Tax Returns. The Manager(s) shall cause all required federal and state income tax returns for LLC to be prepared and timely filed with the appropriate authorities. Within 90 days after the end of each fiscal year or such later date as approved by a Majority of the Members, 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 fiscal year. No Member may obtain damages of any kind or other relief against LLC for failure to complete the accounting and tax returns within 90 days, but may demand records, hire an accountant, and be reimbursed for actual reasonable expenses incurred on behalf of the LLC to obtain a completed tax return.

ARTICLE 6

ALLOCATIONS AND DISTRIBUTIONS

6.1 Annual Distributions. Other than distributions in liquidation of LLC as provided in this Agreement, the Manager(s), in the Manager's sole and absolute discretion may authorize cash distributions to the Members as may be reasonable in view of the cash reserves of LLC. Except as provided in Section 6.4, Preferred Members shall receive preference in the paying of such distributions as provided in this Agreement. Service Members and Non-Preferred Members shall not be paid distributions until after all Annual Preferred Distributions have been paid as provided in this Agreement through the date of such distribution.

6.2 Preferred Distributions. Preferred Members (if any) will be paid, when and if declared by the Manager in an amount determined by the Manager.

6.3 Non-Preferred and Service Member Distributions. Non-Preferred and Service Members will be paid, when and if declared by the Manager annual distributions (“**Annual Distributions**”) in an amount determined by the Manager. All Annual Distributions will be pro-rated among the Non-Preferred and Service Members in proportion to their Membership Units without preference.

6.4 Excess Loan Proceeds. In the event that there are loan proceeds disbursed to LLC that are no longer ear-marked funds, including without limitation, those that resulted from a line-item budgeted construction cost having come in under budget or from previously-required reserve funds (“**Excess Loan Proceeds**”), such Excess Loan Proceeds may be applied or distributed in any manner the Manager deems appropriate (in Manager’s sole and absolute discretion), including but not limited to, payment of indebtedness due by LLC to Members or other lenders; redemption of Preferred Membership Units, Service Membership Units or Non-Preferred Membership Units; and/or distributions to Preferred Members, Non-Preferred Members or Service Members in proportion to their Membership Units

6.5 Distributions in Liquidation. Distributions in liquidation of LLC or a Member’s interest in LLC will be made to the Members in the manner set forth in Article 8 of this Agreement.

6.6 Unauthorized Distributions. Notwithstanding any other provision of this Agreement, LLC may not make distributions to Members if to do so would violate the limited liability company law of the state where LLC is organized or would constitute a breach of any contractual obligation of LLC and any such distribution will be void from the date of such distribution and will be treated as a loan to the Member due and payable on demand.

6.7 Tax Consequences. It is understood that Members may have varying tax consequences relating to distributions from LLC, and LLC makes no representations, warranties, or promises relating to the tax obligations or consequences to any Member relating to any distribution of any type from LLC to any Member.

6.8 Special Allocations and Limitations. In order to comply with Federal income tax regulations regarding the substantial economic effect of Company allocations in the special circumstances described in Appendix 6.8, all allocations of company income, gain, loss, and deductions are subject to the special allocations, definitions, and limitations found in Appendix 6.8.

6.9 Allocation of Net Profits and Losses. Net Profits and Losses of LLC shall be allocated among the Members in accordance with the provisions of Appendix 6.9.

ARTICLE 7

TRANSFERS OF INTEREST; NONCOMPETITION, NONSOLICITATION AND CONFIDENTIALITY FOR SERVICE MEMBERS

7.1 Transfers of Interest. The Members agree to be bound by the Transfer Provisions set forth in Appendix 7.1 to this Agreement.

7.2 Noncompetition, Nonsolicitation and Confidentiality. The Service Members agree to be bound by the Noncompetition, Nonsolicitation and Confidentiality Provisions set forth in Appendix 7.2 to this Agreement.

ARTICLE 8

DISSOLUTION AND WINDING UP OF LLC

8.1 Dissolution. Except as otherwise provided in this Operating Agreement, LLC shall be dissolved: (a) at the time, if any, for dissolution specified in the Articles of Organization; (b) within four (4) years of the sale, transfer, or other disposition of all of the assets of LLC unless otherwise agreed by the Members; (c) upon the agreement of Members then owning more than 50% of the Voting Percentages. Provided, however, that, if a dissolution in accordance with items (b) or (c) above would constitute an event of default of any contractual obligation of LLC, then LLC shall not be dissolved.

8.2 Winding Up. Upon the dissolution of LLC, the assets must be liquidated as promptly as is consistent with obtaining their fair market value, and the proceeds must be applied and distributed and allocated as promptly as is commercially reasonable in the following order:

8.2.1 To the payment and discharge of the expenses of liquidation.

8.2.2 To the payment and discharge of all of the secured debts and liabilities of LLC to persons or organizations other than Members.

8.2.3 To the payment and discharge of all other debts and liabilities of LLC to persons or organizations other than Members.

8.2.4 To the payment and discharge of all debts and liabilities of LLC to Members.

8.2.5 To Preferred Members, in the amount, if any, of unpaid Preferred Distributions under Section 6.2 accrued through the date of dissolution.

8.2.6 To Preferred Members, in the amount of the positive balances in their respective Capital Accounts as adjusted through the date of distribution.

8.2.7 To Non-Preferred Members and Service Members in the amount of the positive balances in their respective Capital Accounts, as adjusted through the date of distribution. If the amount available for such distribution to the Non-Preferred Members and Service Members is insufficient to bring all of the Non-Preferred Members and Service Members' Capital Account balances as adjusted to zero, then payment shall be made on a pro-rata basis to all the Non-Preferred and Service Members in the same proportion that a positive balance in the Capital Account balances of each Non-Preferred and Service Members bears to the aggregate amount of the positive Capital Account balances of all Non-Preferred and Service Members.

After the positive Capital Accounts of all the Preferred Members, Non-preferred Members and Service Members have been reduced to zero or less, the remaining proceeds must

be distributed among the Preferred, Non-Preferred and the Service Members on a pro-rata basis in proportion to their Membership Units.

8.3 Tax Consequences upon Liquidation. It is understood that the Members may have varying consequences relating to distributions upon liquidation of LLC, and neither LLC nor any of its Members or Managers makes any representations, warranties, or promises relating to the tax obligations or consequences of any Member. If any Member has a deficit capital account balance, after giving effect to all contributions, distributions and allocations for all fiscal years, including the fiscal year during which liquidation occurs, such Member will have no obligation to make any contribution with respect to such deficit, and such deficit will not be considered a debt owed by such Member to the LLC or to any other person for any purpose whatsoever and such Member shall be responsible for paying any tax liability which may result therefrom.

ARTICLE 9

INDEMNIFICATION

9.1 Indemnification. To the fullest extent permitted under the law of the state of organization of LLC, as such law exists or may hereafter be amended, LLC shall defend, indemnify, and hold harmless each Member and/or Manager of LLC against any and all claims and liabilities to which such Member and/or Manager has or becomes subject by reason of serving or having served as such Member and/or Manager or by reason of any action alleged to have been taken, omitted, or neglected by such Member and/or Manager in his, her or its capacity as Member or Manager. LLC may provide indemnification to employees and agents of LLC. The indemnification provided in this Section 9.1 will not be exclusive of any other rights to which any person may be entitled under statute, agreement, resolution, contract, or otherwise.

9.2 Limitation of Liability. Neither a Member nor a Manager will be liable to LLC or its Members for monetary damages or otherwise for conduct as a Member and/or as a Manager except to the extent that the Limited Liability Company Act of the state in which this LLC was organized, as it now exists or may hereafter be amended, prohibits elimination or limitation of Manager and/or Member liability. No repeal or amendment of this Section 9.2 of this Operating Agreement or of the Limited Liability Company Act of the state in which this LLC was organized will adversely affect any right or protection of a Manager or a Member for actions or omissions prior to the repeal or amendment. A Manager shall only be liable for grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law which breaches the duty of care as provided in ORS 63.155.

ARTICLE 10

AMENDMENTS

10.1 By Members. The Members may amend, waive or repeal the provisions of this Agreement by approval of the Members in accordance with Article 3.

10.2 By Manager. The Manager may amend and restate Exhibit 2.1.1, Exhibit 2.1.2 and Exhibit 2.1.3 to account for any changes in the information set forth on such exhibits

resulting from matters that occur in accordance with the Act, the Articles of Organization, and this Operating Agreement.

ARTICLE 11

MISCELLANEOUS

11.1 Additional Documents. Each Member must execute such additional documents and take such actions as are reasonably requested in order to complete or confirm the transactions contemplated by this Operating Agreement.

11.2 Dispute Resolution; Exclusive Jurisdiction. In the event there is any dispute or voting deadlock between or among the parties to this Agreement relating in any way to this Agreement, LLC itself, the business or operations of LLC, or the Articles of Organization of LLC, the parties must mediate any such dispute or voting deadlock before commencing any legal action. No party to this Agreement can bring legal action or demand mandatory arbitration against another party to this Agreement without first participating in mediation, unless one party refuses to submit to mediation and legal action is brought to specifically enforce this mandatory mediation provision of this Operating Agreement. If the parties cannot agree upon the person to act as the mediator, then the Arbitration Service of Portland in Portland, Oregon will select a person to act as the mediator. The parties must split the mediator's fees and costs equally. Mediation fees and costs do not include each party's attorney fees and costs. Each party will be responsible for his own attorney fees and costs at mediation. Should the dispute not be resolved by mediation, the parties agree to submit any dispute arising between the parties relating in any way to this Agreement to binding arbitration with the Arbitration Service of Portland in Portland, Oregon, and must utilize such Service's rules of procedure. If the parties cannot agree upon an individual to act as the arbitrator, then the Arbitration Service of Portland in Portland, Oregon shall select a person to act as the arbitrator. The standard used by the arbitrator in resolving disputes will be reasonable business practices in similar businesses, taking into account tax implications. If the dispute goes to arbitration, the prevailing party will be entitled to its attorney fees and costs incurred in the arbitration process. The decision of an arbitrator will be final and not subject to any appeal and will be enforceable in a court of competent jurisdiction. The arbitration provisions in this Agreement may not be enforced in the event that every indispensable and necessary party to the arbitration cannot be brought within the jurisdiction of the arbitrator. In that event, or in the event that this dispute resolution paragraph is otherwise deemed to be unenforceable as to any party, actual or alleged, to this Agreement, then any party, actual or alleged, to this Agreement may enter into any litigation filed by such party relating hereto. Except as provided above in this Section 11.2, any Member or Manager who refuses to submit to the dispute resolution provisions of this Agreement will lose all economic and management rights under this Agreement including the right to receive any income or property or to exercise any management or voting rights under this Agreement. The parties acknowledge that, by executing this document, they are waiving their right to a jury trial, except as otherwise provided hereunder.

The exclusive venue for resolution for any dispute which relates to the rights and obligations of the Members and/or Managers under this Agreement is in Marion County, Oregon. No Member or Manager may maintain any mediation, arbitration or civil proceeding (whether in law or equity and whether in state or Federal court) in any state other than Oregon or

in any county in Oregon other than Marion County. Each Member and Manager by executing this Agreement or otherwise assuming its terms and conditions hereby submits himself, herself, or itself to the jurisdiction of the Marion County Circuit Court and to the jurisdiction of the US District Court for the District of Oregon.

11.2.1 Valuation. Any instance in which valuation of an asset or an interest is subject to the provisions of the Dispute Resolution provisions in this Agreement, value of such asset or interest shall be determined as provided in Appendix 7.1.

11.2.2 Dispute Resolution in the Event of a Deadlock. In any instance in which there are insufficient votes to approve or disapprove any actual or proposed action or inaction of LLC, the Members and Manager(s) agree that such decision shall be referred to the dispute resolution procedure described above; and the standard for decision making to be applied by the arbitrator shall be the reasonable business practices in a similar business in the community, taking into account tax implications. In such event, LLC shall pay all costs of mediation and arbitration. The decision of the arbitrator shall be final and not subject to any appeal and shall be enforceable in a court of competent jurisdiction.

11.3 Governing Law. This Operating Agreement shall be governed by the law of the state of Oregon.

11.4 Headings. The headings in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

11.5 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions.

11.6 Gender and Singular References. Where the context so requires, references in this instrument to any particular gender shall include either or both additional genders; referenced herein to the singular shall include the plural; and references to the plural shall likewise include the singular.

11.7 Third-party Beneficiaries. The provisions of this 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 LLC, except as otherwise provided by applicable law. All legal and accounting services provided to LLC are for the benefit of LLC only, and the providing of such services to LLC shall create no rights or obligations enforceable by any Member or by any third party including creditors of LLC except as otherwise provided for by applicable law.

11.8 Mutually Drafted. LLC and its Members acknowledge and agree that this Agreement and all related agreements and the language used in this Agreement are the product of the efforts of all the parties in consultation with their respective attorneys and other respective consultants, each party hereby irrevocably waives the benefit of any rule of contract construction which disfavors the drafter of an agreement.

11.9 Ratification of Acts. The undersigned Members agree that all actions taken on behalf of LLC prior to the Effective Date hereof are hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties hereto have executed this Operating Agreement on the dates below written to be effective on Effective Date.

KELLEY D. HAMILTON TRUST dated April 1, 2008

By:  5/1/15
Kelley D. Hamilton, Trustee (Date)


**MOUNTAIN WEST SENIOR HOUSING LLC, an
Oregon limited liability company, dba Bonaventure Senior
Housing**

By:  5/1/15
Kelley D. Hamilton, Manager (Date)

**JOSHUA COLE HAMILTON IRREVOCABLE
TRUST dated May 2, 2008**

By:  5/1/15
Kelley D. Hamilton, Trustee (Date)

**JORDON ELIZABETH HAMILTON
IRREVOCABLE TRUST dated May 2, 2008**

By:  5/1/15
Kelley D. Hamilton, Trustee (Date)

Attachments:

Exhibit 1.10	Legal Description of Real Property
Exhibit 2.1.1	Preferred Members
Exhibit 2.1.2	Service Members
Exhibit 2.1.3	Initial Non-Preferred Members
Exhibit 2.1.3(a)	Description of Capital Contribution of Hamilton
Exhibit 2.1.3(b)	Description of Capital Contribution of BSH
Appendix 2.6	Other Business of Members
Appendix 6.8	Special Allocation Definitions and Provisions
Appendix 6.9	Allocation of Income and Definitions
Appendix 7.1	Transfer of Interest Provisions
Appendix 7.2	Noncompetition, Nonsolicitation and Confidentiality Provisions

ATTACHMENTS

OPERATING AGREEMENT
MWSH McAndrews Medford LLC

EXHIBIT 1.10

Legal Description of Real Property

Parcel 3, Partition Plat No. 12-12, Recorded August 7, 2012 in Volume 2012, Page 12 of the Book of Partition Plats, Polk County, Oregon.

EXHIBIT 2.1.1

Preferred Members

<u>Preferred Member</u>	<u>Initial Contribution</u>	<u>Capital Account as of 5/1/15</u>	<u>Date of Admission</u>	<u>Percentage Interest</u>	<u>No. of Membership Units</u>
Kelley D. Hamilton as Trustee of the Jordon Elizabeth Hamilton Irrevocable Trust dated May 2, 2008	\$164,498	\$164,498	5/1/15	15%	150,000
Kelley D. Hamilton as Trustee of the Joshua Cole Hamilton Irrevocable Trust dated May 2, 2008	\$164,498	\$164,498	5/1/15	15%	150,000

EXHIBIT 2.1.2

Service Members

<u>Service Member</u>	<u>Capital Account* as of _____, 2015</u>	<u>Date of Admission</u>	<u>Percentage Interest</u>	<u>No. of Membership Units</u>

*Service Members have no initial capital accounts because their Membership Interests are profits-only interests.

Exhibit 2.1.3

Initial Non-Preferred Members

<u>Member</u>	<u>Description of Contribution</u>	<u>Capital Account as of 5/1/15</u>	<u>Date of Admission</u>	<u>Percentage Interest</u>	<u>No. of Membership Units</u>
Kelley D. Hamilton Trust dated 4/1/08 ("Hamilton Trust") (Initial Member)	A bundle of contract rights, development concepts and reputation described in Exhibit 2.1.3(b), attached hereto and made a part hereof by this reference.	\$756,690	5/1/15	69.0%	690,000
Mountain West Senior Housing LLC, dba Bonaventure Senior Housing ("BSH") (Initial Member)	A bundle of contract rights, development concepts and reputation described in Exhibit 2.1.3(c), attached hereto and made a part hereof by this reference.	\$10,966	5/1/15	1%	10,000

EXHIBIT 2.1.3 (a)

Description of Capital Contribution of the Kelley D. Hamilton Trust dated April 1, 2008 ("Hamilton")

1. All guarantees and warranties owned by Hamilton that in any way affect the real property on which LLC will construct a senior housing community.
2. All permits, licenses, approvals, and consents issued to Hamilton or their assigns and required for the development, construction, or operation of the senior housing community to be constructed on the real property.
3. All designs, plans, specifications, engineering, or layout documents for the senior housing community to be constructed on the real property.
4. All approvals, consents, guarantees, and agreements issued to or obtained by Hamilton to facilitate construction of the senior housing community on the real property and/or financing therefor.
5. Any and all agreements and commitments for construction financing and/or any other financing required for construction of the senior housing community to be constructed on the real property.
6. All other development rights and other intangible property, prepaid assets, and other unamortized assets owned by Hamilton relating to the senior housing community to be constructed on the real property, including Hamilton's development reputation and credibility.

EXHIBIT 2.1.3(b)

Description of Capital Contribution of BSH

1. All guarantees and warranties owned by BSH that in any way affect the real property on which LLC will construct a senior housing community.
2. All permits, licenses, approvals, and consents issued to BSH or its assigns and required for the development, construction, or operation of the senior housing community to be constructed on the real property.
3. All designs, plans, specifications, engineering, or layout documents for the senior housing community to be constructed on the real property developed to date.
4. All approvals, consents, guarantees, and agreements issued to or obtained by BSH to facilitate construction of the senior housing community on the real property and/or financing therefor.
5. Any and all agreements and commitments for construction financing and/or any other financing required for construction of the senior housing community to be constructed on the real property.
6. All other development rights and other intangible property, prepaid assets, and other unamortized assets owned by BSH relating to the senior housing community to be constructed on the real property, including BSH's development reputation and credibility.

APPENDIX 2.8

Other Business of Managers.

Any Manager and/or Member may engage independently or with others in other businesses or investment ventures of every nature and description and shall have no obligation to account to LLC or its Members or other Managers for such businesses or investments or for the businesses or investment opportunities. The Members and Managers agree specifically as follows:

A. The following specific types or categories of activities by a Manager do not violate the duty of loyalty of a Manager to the LLC, and the Members and Manager(s) agree that these provisions are not unconscionable:

1. Competing with LLC in the conduct of LLC's business;
2. Entering into or engaging in, for a Manager's own account, an investment, business transaction, or activity that is similar to the investments, businesses, transactions or activities of the LLC without (i) first offering the LLC, or the Members of the LLC an opportunity to participate in the investment, business, transaction or activity; or (ii) having any obligation to account to the LLC or the other Members for the investment, business, transaction or activity, or the profits from the investment, business, transaction or activity.

B. A Manager, shall not have violated its duty of loyalty to the LLC if the Members, whether interested or disinterested, have authorized or ratified in accordance with Article 3, after full disclosure of all material facts, the specified act or transaction that otherwise would or could be claimed, or has been claimed to violate the duty of loyalty of a Manager to the LLC as defined and as limited in this Agreement and Appendixes hereto.

APPENDIX 6.8

6.8.1 **Adjusted Capital Account Deficit** means a deficit balance in any Member's Capital Account at the end of any fiscal year, after adjustment to reflect any Adjustment Items, to the extent that the deficit exceeds the amount of a member's shares of Company Minimum Gain and Member Non-recourse Debt minimum Gain (if any) that the Member is deemed to be obligated to restore pursuant to Treas. Reg. §§1.704-2(g)(1) and 1.704-2(i)(5).

6.8.2 **Adjustment Items** mean adjustments, allocations, and distributions described in Treas. Reg. §§1.704-1(b)(2)(ii)(d)(4), (5), and (6).

6.8.3 **Capital Account** means the account maintained for each Member pursuant to Section 2.10.

6.8.4 **Company Minimum Gain** means, as of any date, the amount of gain, if any, that would be recognized by the Company for federal income tax purposes, as if it disposed of property in a taxable transaction on that date in full satisfaction of any non-recourse liability secured by the property, computed in accordance with Treas. Reg. §1.704-2(d)(1).

6.8.5 **Member Non-recourse Debt** has the same meaning as "partner non-recourse debt" set forth in Treas. Reg. §1.704-2(b)(4).

6.8.6 **Member Non-recourse Debt Minimum Gain** means an amount, with respect to each Member non-recourse Debt, equal to the Company Minimum Gain that would result if such Member Non-recourse Debt were treated as a non-recourse Liability, determined pursuant to Treas. Reg. §1.704-2(i)(2) and (3).

6.8.7 **Member Non-recourse Deductions** has the same meaning as "partner non-recourse deductions" set forth in Treas. Reg. §1.704-2(i)(2). The amount of Member non-recourse Deductions with respect to a Member non-recourse Debt for a Company fiscal year equals the excess, if any, of" (A) the net increase, if any, in the amount of the Company minimum Gain attributable to such Member Non-recourse Debt during the fiscal year over (B) the aggregate amount of any distribution during the fiscal year to the Member that bears the economic risk of loss for such Member Non-recourse Debt to the extent the distributions are from proceeds of the Member Non-recourse Debt and are allocable to an increase in Member Non-recourse Debt Minimum Gain attributable to the Member Non-recourse Debt, determined pursuant to Treas. Reg. §1.704-2(i).

6.8.8 **Non-recourse Deductions** has the meaning set forth in Treas. Reg. §1.704-2(c). The amount of Non-recourse Deduction for a Company fiscal year equals excess, if any, of the net increase, if any, in the amount of Company Minimum Gain during that fiscal year over the aggregate amount of any distributions during that fiscal year of proceeds of a non-recourse Liability that are allocable to an increase in Company Minimum Gain, determined pursuant to Treas. Reg. §1.704-2(c).

6.8.9 **Non-recourse Liability** has the meaning set forth in Treas. Reg. §1.704-2(b)(3).

6.8.10 **Limitations on Allocations of Loss.** In no event will any Company loss or deduction, or item thereof, be allocated to any Member to the extent that the Member has, or would have as a result of the allocation, an Adjusted Capital Account Deficit in the Member's Capital Account as of the end of the Company taxable year to which the allocation relates. Any loss or deduction, the allocation of which to a Member is disallowed by the foregoing restriction, will be reallocated to those Members who do not have an Adjusted Capital Account Deficit as of the end of such taxable year.

6.8.11 **Company Minimum Gain Chargeback.** If there is a net decrease in Company Minimum Gain during any Company taxable year, each Member will be specially allocated, before any other allocation of Company income, gain, loss, or deduction for the taxable year, items of Company income and gain for the taxable year (and, if necessary, subsequent years) in proportion to and to the extent of an amount equal to each Member's share of the net decrease in Company Minimum Gain determined in accordance with Treas. Reg. §1.704-2(g)(2). This Paragraph is intended to comply with and will be interpreted consistently with the "minimum gain chargeback" provisions of Treas. Reg. §1.704-2(f).

6.8.12 **Member Non-recourse Debt Minimum Gain Chargeback.** Notwithstanding any other provision of Article 6 of the Agreement or this Appendix 6.8, except paragraph 6.8.11. of this Appendix 6.8, if there is a net decrease in Member Non-recourse Debt Minimum Gain attributable to a Member Non-recourse Debt during any taxable year of the Company, each Member who has a share of the Member Non-recourse Debt Minimum Gain attributable to such Member Non-recourse Debt, determined in accordance with Treas. Reg. §1.704-2(i)(5), will be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Non-recourse Debt, determined in accordance with Treas. Reg. §1.704-2(i)(4). Allocations pursuant to this Paragraph 6.8.12 will be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated will be determined in accordance with Treas. Reg. §1.704-2(i)(4). This Paragraph 6.8.12 is intended to comply with, and will be interpreted consistently with, the partner non-recourse debt minimum gain chargeback provisions of Treas. Reg. s §1.704-2(i)(4).

6.8.13 **Qualified Income Offset.** Notwithstanding any other provision of the Agreement or this Appendix 6.8 except Paragraphs 6.8.11 and 6.8.12 of this Appendix 6.8, in the event any Member for any reason receives an Adjustment Item for any fiscal year that results in an Adjusted Capital Account Deficit for that Member, the Member will be specially allocated items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for the year) in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit, if any, created by such Adjustment Item as quickly as possible. This Paragraph 6.8.13 is intended to comply with the "qualified income offset" requirements of Treas. Reg. §1.704-1(b)(2)(ii)(d) and will be interpreted and applied consistently therewith.

6.8.14 Offsetting Allocations. Any special allocations of items of income, gain, loss, or deduction pursuant to Paragraphs 6.8.11, 6.8.12 or 6.8.13 of this Appendix 6.8 will be taken into account in computing subsequent allocations of Company income, gain, loss or deduction pursuant to Article 6 so that the net amount of any items so allocated and all other income, gain, loss, deductions, and items thereof allocated to each Member pursuant to Article 6 will, to the extent possible, be equal to the net amount that would have been allocated to each Member pursuant to Article 6 if the special allocation had not occurred.

6.8.15 Allocations with respect to Contributed or Revalued Property. Notwithstanding any other provision of Article 6 of this Agreement, in the event Internal Revenue Code (“**IRC**”) §704(c) or IRC §704(c) principles applicable under Treas. Reg. §1.704-1(b)(2)(iv) require allocations of Company income, gain, loss, or deductions for income tax purposes in a manner different than otherwise provided in Article 6 of this Agreement, the provisions of IRC §704(c) and the regulations thereunder will control such allocations among the Members for income tax purposes. Any item of income, gain, loss, and deduction with respect to any property (other than cash) that has been contributed to the Company by a Member or that has been revalued for Capital Account purposes under this Agreement pursuant to Treas. Reg. §1.704-1(b)(2)(iv) and which is required or permitted to be allocated to such Member for income tax purposes under IRC §704(c) so as to take into account the variation between the tax basis of such contributed or revalued property and its fair market value at the time of its contribution or revaluation will be allocated solely for income tax purposes in the manner so required or permitted under IRC §704(c) using the method described in Treas. Reg. §1.704-3(b).

APPENDIX 6.9

6.9 Allocation of Net Profits. Notwithstanding any other provision of this Agreement, Members will be allocated Net Profits as provided in Section 6.9.2 of this Appendix 6.9. Members shall not be allocated Net Profits to the extent of distributions paid to such Members from Excess Loan Proceeds.

6.9.1 Definition. For purposes of this agreement, the terms “Net Profits” and “Net Losses” mean, respectively, the LLC’s net taxable income or losses for Federal income tax purposes for the applicable period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) will be included in taxable income or loss), with the following adjustments:

6.9.1.1 Any income of the LLC that is exempt from Federal income tax and is not otherwise taken into account in computing Net Profits or Net Losses pursuant to this Section 6.9.1.1 shall be added to such taxable income or loss;

6.9.1.2 Any expenditures of the LLC described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to the Treas. Reg. s under Code Section 704(b) and not otherwise taken into account or excluded in computing Net Profits or Net Losses pursuant to this Section 6.9.1.2 must be subtracted from such taxable income or loss;

6.9.1.3 In accordance with IRC § 704(c), income, gain, loss, and deduction with respect to property that has been contributed to the Company by an Interest Holder (as defined in Appendix 7.1) or that has been revalued for Capital Account purposes under this Agreement will be allocated among the Interest Holders so as to take account of the variation between the basis of the property to the Company and its fair market value at the time of contribution or revaluation under the rule of Treas Reg § 1.704-3(b). Allocations made under this Section 6.9.1.3 are solely for tax purposes and will not affect any Interest Holder’s Capital Account, share of Profits and Losses, or the right to receive distributions of the Company’s assets .

6.9.1.4 Any gain or loss which would have been realized by the LLC on the sale of assets distributed in kind to a Member pursuant to Article 8 of the Operating Agreement, determined with reference to the fair market value and the adjusted tax basis of such property for Federal income tax purposes immediately prior to such distribution, must be added to or subtracted from, respectively, such loss or taxable income;

6.9.1.5 To the extent an adjustment to the adjusted tax basis of any LLC asset pursuant to IRC § 734(b) or IRC § 743(b) is required pursuant to Treas. Reg. § 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in complete liquidation of a Member’s economic interest in the LLC, the amount of such adjustment must be treated as an item of gain (if the adjustment increases the

basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and must be taken into account for purposes of computing Net Profits or Net Losses; and

6.9.1.6 Notwithstanding any other provision in this definition, any items that are specially allocated pursuant to Sections 6.8.11 through 6.8.13 of Appendix 6.8 must not be taken into account in computing Net Profits or Net Losses.

The amounts of the items of LLC income, gain, loss or deduction available to be specially allocated pursuant to Sections 6.8.11 through 6.8.13 of Appendix 6.8 must be determined by applying rules analogous to those set forth in clauses 6.9.1.1 through 6.9.1.6 of this definition.

6.9.2 Allocation of Net Profits. Subject to Section 6.8 and Appendix 6.8, Net Profits of the LLC for any period must be allocated as follows in the following order:

6.9.2.1 First, among the Members in proportion to each Member's share of all Net Losses previously allocated in accordance with Section 6.9.3 and not previously offset by an allocation of Net Profits under this Section 6.9.2.1.

6.9.2.2 Second, among the Preferred Members to the extent of each Preferred Member's excess of (1) the aggregate amount of distributions previously and currently accrued to such Member in accordance with Section 6.2 (whether or not such accrued distributions have then been paid) over (2) the aggregate amount of Net Profits previously allocated to such Member in accordance with this Section 6.9.2.2.

6.9.2.3 Third, among the Non-Preferred and Service Members to the extent of each such Member's excess of (1) the aggregate amount of distributions previously and currently paid to such Member in accordance with Section 6.3 over (2) the aggregate amount of Net Profits previously allocated to such Member in accordance with this Section 6.9.2.3 and Section 6.9.2.5.

6.9.2.4 Fourth, among the Preferred Members to the extent of each Preferred Member's excess of (1) the Preferred Return on Capital previously and currently paid to such Preferred Member in accordance with Section 2.8 over (2) the aggregate amount of Net Profits previously allocated to such Preferred Member in accordance with this Section 6.9.2.4.

6.9.2.5 Fifth, among the Non-Preferred and Service Members in proportion to their Membership Units.

6.9.3 Allocation of Net Losses. Except as provided in Appendix 6.8, Net Losses of the LLC for any period must be allocated among the Members in proportion to their respective Membership Units.

APPENDIX 7.1

Transfer Provisions

7.1 **DEFINITIONS.** Unless defined in this Section 7.1 or in these Transfer Provisions, all defined terms will have the meanings assigned to them in the main body of the Operating Agreement. As used in these Transfer Provisions, the following terms shall have the following meanings:

7.1.1 “**Act**” means the Oregon Limited Liability Company Act, as amended from time to time.

7.1.2 “**Articles of Organization**” means the document described in ORS 63.047 for the purpose of forming the LLC, including the articles of organization as it may be amended or restated, and articles of merger.

7.1.3 “**Assignee**” means a person with an ownership Interest in the LLC who is not a Member and who does not have any of the rights and obligations of a Member specified in the Act, the Articles of Organization, or this Agreement, except the right to receive and retain distributions, as and when made, and allocations of Profits and Losses.

7.1.4 “**Bankruptcy**” means, with respect to a person:

7.1.4.1 assignment by the person for the benefit of creditors;

7.1.4.2 commencement of a voluntary bankruptcy case by the person;

7.1.4.3 adjudication of the person as bankrupt or insolvent;

7.1.4.4 filing by the person of a petition or answer seeking for the person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or rule;

7.1.4.5 filing by the person of an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding of this nature;

7.1.4.6 seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of the person or of all or any substantial part of the person’s properties;

7.1.4.7 commencement of an involuntary bankruptcy case against the person that has not been dismissed on or before the 120th day after the commencement of the case; or

7.1.4.8 appointment, without the person's consent, of a trustee, receiver, or liquidator either of the person or of all or any substantial part of the person's properties that is not:

7.1.4.9 vacated or stayed on or before the 90th day after appointment; or

7.1.4.10 vacated on or before the 90th day after expiration of a stay.

7.1.5 **"Interest"** means an Interest in the LLC owned by a Member or an Assignee.

7.1.6 **"Interest Holder"** means a person who is a Member or an Assignee.

7.1.7 **"Member"** means a person with an ownership Interest in the LLC and all of the rights and obligations of a Member specified in the Act, the Articles of Organization, and this Agreement.

7.1.8 **"Optional Triggering Event for the LLC"** means any event specified in Section 7.5.1.

7.1.9 **"Transfer"** means any conveyance, including but not limited to any sale, exchange, gift, encumbrance, foreclosure of an encumbrance, or attachment.

7.1.10 **"Transfer Notice"** means a notice delivered under Section 7.4.1 of this Appendix 7.1 that sets forth:

7.1.10.1 the names of one or more proposed transferees;

7.1.10.2 the Percentage Interest of the Interest that the Interest Holder proposes to Transfer;

7.1.10.3 the type of proposed Transfer;

7.1.10.4 the proposed price of the Interest, if applicable; and

7.1.10.5 the proposed other terms and conditions of the Transfer, including but not limited to the payment terms, if applicable.

7.2 RESTRICTION ON TRANSFER

7.2.1 **Restriction.** No Transfer of an Interest may be made unless the Transfer is expressly permitted by this Agreement.

7.2.2 **Securities Laws.** No offer or Transfer of any Interest may be made unless pursuant to an effective registration statement filed under the Securities Act of 1933 and applicable state securities laws, or unless the LLC receives an opinion of counsel, in form and

from counsel satisfactory to the LLC, that the offer or Transfer is exempt from the registration requirements of the Securities Act of 1933 and applicable state securities laws.

7.2.3 Accredited Investors. An Interest Holder may Transfer an Interest only to “accredited investors” as defined under Rule 501(a) of Regulation D of the Securities Act of 1933.

7.2.4 Contractual Restrictions. No Interest Holder may Transfer an Interest if such Transfer would cause the LLC to breach any of its material contracts.

7.2.5 Transferees.

7.2.5.1 No Transfer of any Interest may be made unless the transferee is a party to this Agreement, or becomes a party to this Agreement by signing a joinder agreement in the form and substance satisfactory to the LLC.

7.2.5.2 If a Member makes a Transfer of an Interest expressly permitted by this Agreement to a person other than the LLC, the transferee will be a Member with respect to the Interest transferred. If a Transfer of an Interest expressly permitted by this Agreement is made by an Assignee to a person other than the LLC, the transferee will be an Assignee with respect to the Interest transferred.

7.2.6 Prohibited Transfers. Any Transfer of an Interest that is not expressly permitted by this Agreement will be null and void and have no force or effect unless the LLC is required by applicable law to recognize the Transfer or unless the LLC elects to recognize the Transfer.

7.2.7 Indemnification. Each Interest Holder will indemnify, defend and hold harmless the LLC and each present and future Interest holder, member, manager, officer, employee, independent contractor and authorized representative of the LLC from any and all claims, actions, proceedings, damages, liabilities, and expenses of every kind, whether known or unknown, including but not limited to reasonable attorney’s fees, resulting from or arising out of any Transfer of an Interest by the Interest Holder that is not expressly permitted by this Agreement.

7.3 PERMITTED TRANSFERS

An Interest Holder may Transfer an Interest in accordance with this Section 7.3, subject to the terms and conditions of Section 7.2 and the other sections of these Transfer Provisions.

7.3.1 Prior Consent. An Interest Holder may Transfer an Interest with the prior written consent of a Majority of the Members.

7.3.2 Estate Planning. An Interest Holder may, upon 20 days’ written notice to the LLC and the other Interest Holders, Transfer an Interest to:

7.3.2.1 one or more trusts created by the Interest Holder for the benefit of the Interest Holder, the Interest Holder's spouse, or one or more lineal descendants of the Interest Holder's parents; and

7.3.2.2 one or more corporations, limited liability companies, or partnerships that are owned or controlled by the Interest Holder, the Interest Holder's spouse, or one or more lineal descendants of the Interest Holder's parents and remain so controlled during ownership of such Interest.

7.3.3 **Permitted Liens.** BSH, and the Hamilton Trust may grant security interests in their respective Interests to their lenders.

7.4 **RIGHT OF FIRST REFUSAL**

7.4.1 **Transfer Notice.** If an Interest Holder other than a Service Member desires to Transfer an Interest in a manner that is not expressly permitted under Section 7.3 of these Transfer Provisions, the Interest Holder may give a Transfer Notice to the LLC and the other Interest Holders and Transfer the Interest in accordance with this Section 7.4.

7.4.2 **LLC's Option to Buy.**

7.4.2.1 For 20 days after the delivery of the Transfer Notice, the LLC will have the option to buy some or all of the Interest having a Percentage Interest set forth in the Transfer Notice:

7.4.2.1.1 at the price and on the terms and conditions set forth in the Transfer Notice, if the proposed Transfer is a cash sale; or

7.4.2.1.2 at the price determined in accordance with Section 7.8 of these Transfer Provisions and on the terms and conditions set forth in Section 7.9 of these Transfer Provisions, if any portion of the proposed Transfer is not a cash sale.

7.4.2.2 The LLC may exercise the option by giving the Interest Holder a notice stating that the option is exercised and specifying the Percentage Interest of the Interest for which the option is exercised.

7.4.2.3 If the LLC does not exercise the option with respect to all of the Interest set forth in the Transfer Notice in a timely manner, the LLC will promptly give the other Interest Holders a notice stating that fact and the Percentage Interest for the Interest for which the option was and was not exercised.

7.4.3 **Other Interest Holders' Option to Buy.**

7.4.3.1 For 20 days after the delivery of the notice to the other Interest Holders, jointly and severally will have the option to buy all of the Interest, but not less than all of the Interest set forth in the Transfer Notice relating to which the option was not exercised by the LLC:

7.4.3.1.1 at the price and on the terms and conditions set forth in the Transfer Notice, if the proposed Transfer is a cash sale; or

7.4.3.1.2 at the price determined in accordance with Section 7.8 of these Transfer Provisions and on the terms and conditions set forth in Section 7.9 of these Transfer Provisions, if any portion of the proposed Transfer is not a cash sale.

7.4.3.2 An Interest Holder which desires to purchase the Interest may exercise the option by giving the LLC and Transferring Interest Holder a notice stating that the option is exercised (Interest Holder Notice of Exercise). If more than one Interest Holder issues an Interest Holder Notice of Exercise, then the Interests of the Transferring Interest Holder, shall be sold to the Holders who have issued the Interest Holder Notice of Exercise in the proportion to the existing Percentage Interest of the Interest Holders exercising the option.

7.4.4 Sale to the LLC and the Other Interest Holders. If one or both of the options under Section 7.4.2 and Section 7.4.3 of these Transfer Provisions are exercised with respect to all of the Interest set forth in the Transfer Notice in a timely manner:

7.4.4.1 the LLC will buy from the Interest Holder who gave the Transfer Notice, and the Interest Holder who gave the Transfer Notice will sell to the LLC, the Interest for which the option was exercised by the LLC, subject to the terms and conditions of this Agreement;

7.4.4.2 the Interest Holders who exercised the option will buy from the Interest Holder who gave the Transfer Notice, and the Interest Holder who gave the Transfer Notice will sell to the Interest Holders who exercised the option, the Interest for which the option was exercised by the Interest Holders, subject to the terms and conditions of this Agreement; and

7.4.4.3 if more than one Interest Holder exercised the option in a timely manner, each Interest Holder who exercised the option will have priority to such proportion of the available Interest as the Percentage Interest owned by the Interest Holder bears to the Percentage Interest owned by all Interest Holders who exercised the option; and

7.4.4.4 the sale will occur in accordance with Section 7.10 of these Transfer Provisions.

7.4.5 Right to Sell to Others. If the options under Section 7.4.2 and Section 7.4.3 of these Transfer Provisions are not exercised with respect to all of the Interest set forth in the Transfer Notice in a timely manner, the Interest Holder who gave the Transfer Notice may Transfer all of the Interest, but not less than all of the Interest, set forth in the Transfer Notice, but only if the Transfer is:

7.4.5.1 made to the transferees set forth in the Transfer Notice;

7.4.5.2 the type of Transfer set forth in the Transfer Notice;

7.4.5.3 made at the price set forth in the Transfer Notice, if applicable;

7.4.5.4 made on the other terms and conditions set forth in the Transfer Notice, including but not limited to the payment terms, if applicable;

7.4.5.5 completed within 30 days after the date that the other Interest Holders' option under Section 7.4.3 of these Transfer Provisions expires; and

7.4.5.6 consented to by a Majority of the Members.

7.5 OPTIONAL TRIGGERING EVENTS FOR THE LLC

Upon the occurrence of an Optional Triggering Event, the LLC and the Members shall have the following rights and obligations:

7.5.1 Optional Triggering Events. Each of the following is an Optional Triggering Event for the LLC:

7.5.1.1 the death of an Interest Holder;

7.5.1.2 the incompetency of an Interest Holder, if an entry of a judgment by a court of competent jurisdiction adjudicates the Interest Holder incompetent to manage the Interest Holder's person or estate;

7.5.1.3 the Bankruptcy of an Interest Holder;

7.5.1.4 the dissolution of an Interest Holder, if such Interest Holder is an entity;

7.5.1.5 an Interest Holder materially breaches this Agreement and fails to cure the breach within 20 days after any party to this Agreement notifies the Interest Holder of the breach;

7.5.1.6 an Interest Holder materially breaches any other agreement to which the Interest Holder and the LLC are parties and fails to cure the breach within 20 days after any party to the agreement notifies the Interest Holder of the breach; and

7.5.1.7 commencement of litigation and/or arbitration against LLC, its Members, agents, representatives, Managers, Lessee(s), employee(s), executive(s) and/or independent contractor(s) without the consent of a Super Majority of the Members.

7.5.2 LLC's Option to Buy. Upon the occurrence of an Optional Triggering Event for the LLC with respect to an Interest Holder other than a Service Member:

7.5.2.1 the parties will promptly notify each other of the occurrence of the Optional Triggering Event;

7.5.2.2 for 20 days after the delivery of the notice to the parties, the LLC will have the option to buy some or all of the Interest owned or controlled by the Interest Holder at the price determined in accordance with Section 7.8 of these Transfer Provisions and on the terms and conditions set forth in Section 7.9 of these Transfer Provisions;

7.5.2.3 the LLC may exercise the option by giving the Interest Holder a notice stating that the option is exercised and specifying the Percentage Interest of the Interest for which the option is exercised; and

7.5.2.4 if the LLC does not exercise the option with respect to all of the Interest owned or controlled by the Interest Holder in a timely manner, the LLC will promptly give the other Interest Holders a notice stating that fact and the Percentage Interest of the Interest for which the option was and was not exercised.

7.5.3 Other Interest Holders' Option to Buy.

7.5.3.1 For 20 days after the delivery of the notice to the other Interest Holders, each other Interest Holder will have the option to buy all of the Interest – but not less than all of the Interest – owned or controlled by the Interest Holder for which the option was not exercised at the price determined in accordance with Section 7.8 of these Transfer Provisions and on the terms and conditions set forth in Section 7.9 of these Transfer Provisions.

7.5.3.2 An Interest Holder may exercise the option by giving the LLC and the Interest Holder a notice stating that the option is exercised.

7.5.4 Sale to the LLC and the Other Interest Holders. If one or both of the options under Section 7.5.2 and Section 7.5.3 of these Transfer Provisions are exercised with respect to all of the Interest owned or controlled by the Interest Holder in a timely manner:

7.5.4.1 the LLC will buy from the Interest Holder, and the Interest Holder will sell to the LLC, the Interest having the Percentage Interest for which the option was exercised by the LLC, subject to the terms and conditions of this Agreement;

7.5.4.2 the Interest Holders who exercised the option will buy from the Interest Holder, and the Interest Holder will sell to the Interest Holders who exercised the option, the Interest having the Percentage Interest for which the option was exercised by the Interest Holders, subject to the terms and conditions of this Agreement;

7.5.4.3 if more than one Interest Holder exercised the option in a timely manner, each Interest Holder who exercised the option will have priority to such proportion of the available Interest as the Percentage Interest owned by the Interest Holder bears to the Percentage Interest owned by all Interest Holders who exercised the option; and

7.5.4.4 the sale will occur in accordance with Section 7.10 of these Transfer Provisions.

7.5.5 Continued Ownership. If the options under Section 7.5.2 and Section 7.5.3 of these Transfer Provisions are not exercised with respect to all of the Interest owned or controlled by the Interest Holder in a timely manner, the Interest Holder will continue to own and control the Interests subject to the terms and conditions of this Agreement.

7.6 CESSATION OF MEMBERSHIP

7.6.1 Cessation of Membership. A Member will cease to be a Member in the LLC upon:

7.6.1.1 the death of the Member;

7.6.1.2 the incompetency of the Member, if an entry of a judgment by a court of competent jurisdiction adjudicates the Member incompetent to manage the Member's person or estate;

7.6.1.3 the Bankruptcy of the Member;

7.6.1.4 the dissolution of the Member if such Member is an entity;

7.6.1.5 the Member's material breach of this Agreement and failure to cure the breach within 20 days after any party to this Agreement notifies the Member of the breach; or

7.6.1.6 the Member's material breach of any other agreement to which the Member and the LLC are parties and failure to cure the breach within 20 days after any party to the agreement notifies the Member of the breach.

7.6.2 Effect of Cessation.

7.6.2.1 Except as otherwise provided in Section 7.6.2.2 of these Transfer Provisions, following the cessation of membership:

7.6.2.1.1 the holder of the former Member's Interest will be an Assignee with respect to the Interest;

7.6.2.1.2 except as otherwise provided in ORS 63.229 and ORS 63.235, until the Assignee becomes a Member, the Assignee has no liability, duty, or obligation as a Member solely as a result of the cessation; and

7.6.2.1.3 the former Member is not released from liability as a Member accruing or arising prior to the cessation solely as a result of the cessation, and is not relieved of any fiduciary duties the former Member otherwise may continue to owe the LLC or the other Members.

7.6.2.2 If the Member who ceases to be a Member is the only Member of the LLC, the holder of the former Member's Interest will become a Member simultaneously with and upon the cessation of membership.

7.7 ASSIGNEES

7.7.1 Admission of Assignee as Member. An Assignee may become a Member upon the consent of a Majority of the Members.

7.7.2 Rights of Assignee Who Becomes Member.

7.7.2.1 An Assignee who becomes a Member has the rights and powers, and is subject to the restrictions and liabilities, of a Member under the Act, the Articles of Organization, and this Agreement. An Assignee who becomes a Member also is liable for any obligations of the former holder of the Assignee's Interest to make contributions under ORS 63.180.

7.7.2.2 Whether or not an Assignee becomes a Member, the former holder of the Assignee's Interest is not released from the former holder's liability to the LLC to make contributions under ORS 63.180.

7.8 PRICE. If the price of any Interest is to be determined in accordance with this Section 7.8 of these Transfer Provisions, the price will be determined as follows:

7.8.1 Agreed Value. If any agreement among any or all of the LLC and/or the Member(s), or the Member's principals has been executed by any or all of the LLC and/or such Members and principals of the Members, relating to the price of the Interest and/or the terms of the purchase of the Interest, that price and the rights of the parties provided in such other agreement(s), shall be honored by the LLC, and the parties executing that agreement and nothing herein shall be construed to in anyway abrogate, amend or modify such agreement(s). If LLC (or the remaining Members if the LLC does not exercise the option) and the Transferring Member otherwise agree on a price of the Interest within 20 days after the determination of the parties buying the Interest, and the Percentage Interest being bought by each party, the price of the Interest will be as agreed.

7.8.2 Price of Interest. If the LLC (or the remaining Members if the LLC does not exercise the option) and the Transferring Member cannot otherwise agree on the price of the Interest within 20 days after the determination of the parties buying the Interest and the Percentage Interest being bought by each party, the price of the Interest will be the amount that the Transferring Member would have received under Section 8.2 of the Operating Agreement if the assets of the LLC had been sold for their fair market value as may be determined by an MAI appraisal in accordance with Section 7.8.3 and the LCC had been dissolved.

7.8.3 Appraisal. If the fair market value of the Interest is to be determined by appraisal, the fair market value of the Interest will be determined in accordance with the following provisions:

7.8.3.1 if the LLC (or the remaining Members as the case may be) and the Transferring Member agree on and retain an appraiser within 20 days after the expiration of the period specified in Section 7.8.2 of these Transfer Provisions, the fair market value of the Interest will be determined by the appraiser;

7.8.3.2 if the LLC (or remaining Members as the case may be) and the Transferring Member cannot agree on and retain an appraiser within 20 days after the expiration of the period specified in Section 7.8.2 of these Transfer Provisions, then:

7.8.3.2.1 LLC (or the remaining Members as the case may be) and the Transferring Member will each retain a separate appraiser within an additional 20 days;

7.8.3.2.2 within an additional 20 days the appraisers so retained will designate a third appraiser and the LLC (or the remaining Members as the case may be) and the Transferring Member will jointly retain the third appraiser; and

7.8.3.2.3 the fair market value of the Interest will be determined by the third appraiser;

7.8.3.3 within 45 days after the appraiser who is to determine the fair market value of the Interest is retained, the appraiser will deliver to the LLC (or the remaining Members as the case may be) and the Transferring Member a written and signed document which sets forth the appraiser's determination of the fair market value of the Interest, together with a discussion of the facts, considerations, and opinions on which the determination is based;

7.8.3.4 the appraiser's determination of the fair market value of the Interest will be binding on the parties;

7.8.3.5 each appraiser must be a practicing business appraiser with substantial knowledge and experience in the industry in which the LLC operates;

7.8.3.6 the LLC (or the remaining Members as the case may be) and the Transferring Member may present facts and opinions to the appraisers, and the appraisers will consider all relevant facts and opinions presented by the LLC (or the remaining Members as the case may be) and the Transferring Member;

7.8.3.7 the LLC (or the remaining Members as the case may be) and the Transferring Member will pay all of the fees, costs, and expenses of the appraiser retained solely by them; and

7.8.3.8 the LLC (or the remaining Members as the case may be) and the Transferring Member will each pay 50% of the fees, costs, and expenses of any appraiser retained by both of them.

7.9 PAYMENT TERMS

If the terms and conditions of a sale of an Interest are to be determined in accordance with this Section 7.9, the terms and conditions will be determined as follows:

7.9.1 Agreed Terms. Any agreement among the LLC and one or more of the Members relating to the terms and conditions of the sale of the Interest shall be honored by the parties. In the absence of such other agreement, if the seller and the buyers agree on the terms and conditions of the sale of the Interest within 20 days after the determination of the parties buying the Interest and the Percentage Interest being bought by each party, the terms and conditions of the sale of the Interest will be as agreed.

7.9.2 Payment Terms. If the LLC (or the remaining Members as the case may be) and the Transferring Member cannot agree on the terms and conditions of the sale of the Interest within 20 days after the determination of the parties buying the Interest and the Percentage Interest being bought by each party, the terms and conditions will be as follows:

7.9.2.1 the purchase price will evidenced by one or more promissory notes payable to the Transferring Member;

7.9.2.2 the purchase price, together with interest on the unpaid balance from the date of the sale of the Interest, will be paid in equal monthly installments amortized over a period of 25 years, with interest thereon at the rate of 6% per annum with no penalty for pre-payment and a balloon payment in the amount of the remaining balance due 10 years from the date interest commences;

7.9.2.3 the first installment will be due on the first day of the first calendar month after the date of the sale of the Interest, and subsequent installments will be due on the same day of each following month;

7.9.2.4 the LLC (or the remaining Members as the case may be) will pay interest on the unpaid balance at an annual rate of 6% compounding monthly on the basis of a 360-day year;

7.9.2.5 the unpaid balance, together with accrued interest, may be prepaid in whole or in part at any time without penalty; and

7.9.2.6 the promissory note will be secured by a security interest in the Interest purchased as evidenced by a Pledge Agreement – during the term of the promissory note, the purchased Interest will not have any voting rights.

7.10 CLOSING OF SALE. If the sale of any Interest is to occur in accordance with this Section 7.10, the sale will be closed as follows:

7.10.1 the sale will occur at a time and date fixed by the LLC (or the remaining Members as the case may be) and the Transferring Member within 10 days after:

7.10.1.1 the final determination of the price of the Interest, if the price of the Interest is determined in accordance with Section 7.8 of these Transfer Provisions; or

7.10.1.2 the date that the last possible option is exercised under Section 7.4.2 and Section 7.4.3 of these Transfer Provisions, if the price of the Interest is set forth in a Transfer Notice;

7.10.2 the sale will close at the LLC's principal office, or at a place fixed by the LLC (or the remaining Members as the case may be) and the Transferring Member;

7.10.3 the LLC (or the remaining Members as the case may be) will sign and deliver to the Transferring Member:

7.10.3.1 a certified check in the amount of the portion of the price of the Interest that will be paid on the date that the sale occurs;

7.10.3.2 any promissory note, pledge agreement, or security agreement required by Section 7.9 of these Transfer Provisions; and

7.10.3.3 if applicable, any other documents required by the Transfer Notice;

7.10.4 the Transferring Member will deliver to the LLC (or the remaining Members as the case may be) assignments indorsed to the appropriate party in substance and form reasonably acceptable to the LLC (or the remaining Members as the case may be);

7.10.5 the Transferring Member will sign and deliver to the LLC (or the remaining Members as the case may be) a certificate in which the Transferring Member represents and warrants to the LLC (or the remaining Members as the case may be) that:

7.10.5.1 the Transferring Member is the sole owner of the Interest; and

7.10.5.2 the Interest is free from any encumbrance, including but not limited to any security interest or lien;

7.10.6 if the LLC buys any Interest, the LLC will sign and deliver to the Transferring Member a certificate in which the LLC represents and warrants to the Transferring Member that the LLC can lawfully buy the Interest under the Act;

7.10.7 if the buyer is a Member(s), each buyer other than the LLC must be a Member with respect to the Interest bought;

7.10.8 the Transferring Member and the LLC (or the remaining Members as the case may be) must sign and deliver all other documents and take or cause to be taken all other acts that they deem necessary or appropriate to effect and carry out the sale of the Interest being purchased and sold; and

7.10.9 all sales to all buyers will occur, and will be deemed to have occurred, simultaneously.

7.11 OPTIONAL PURCHASE OF SERVICE MEMBERS' MEMBERSHIP UNITS.

7.11.1 Option to Purchase Upon Cause. If a Cause event happens with respect to a Service Member, then the LLC (or its assignee) will have the option, beginning on the date of the Cause event and continuing for 365 days, to purchase all Membership Units held by the Service Member in the LLC. The LLC (or its assignee) may exercise the option by giving written notice to the Service Member within 365 days from the date of the Cause event. The purchase price for all of the Membership Units held by Service Member will be the lesser of \$1 or the Service Member's Capital Account.

7.11.2 Option to Purchase Upon Death or Resignation. If a Service Member dies or resigns as a consultant or employee of the LLC, other than due to permanent disability or retirement, prior to or within five years from the date a certificate of occupancy is issued for the Facility (as defined in Appendix 7.2), the LLC (or its assignee) will have the option, beginning on the date of death or resignation and continuing for 365 days, to purchase all Membership Units held by the Service Member. The LLC (or its assignee) may exercise the option by giving written notice to the Service Member within 365 days from the date of death or resignation. The purchase price for the Membership Units will be 50% of the price determined under Section 7.8.2 for the Service Member's Interest.

7.11.3 Damages. The parties to this Operating Agreement acknowledge that (a) damages resulting from or arising out of a Cause event would be impractical to ascertain and (b) the LLC's repurchase rights in these Transfer Provisions are reasonable in the light of the anticipated or actual harm caused, the difficulties of proof of loss, and the inconvenience and nonfeasibility of otherwise obtaining an adequate remedy.

7.11.4 Assignment to Non-preferred Members. The Members agree that the Manager may assign the LLC's purchase rights under this Section 7.11 to any Non-Preferred Member without the approval of any of the other Members.

7.11.5 Definitions. For purposes of this Section 7.11, the following definitions apply:

7.11.5.1 "**Cause**" means a Service Member's:

7.11.5.1.1 intentional, wrongful act or gross negligence in the performance of the Services;

7.11.5.1.2 material failure to perform the Services in accordance with the specifications set forth in the Grant Agreement, including without limitation any time periods specified;

7.11.5.1.3 indictment or conviction for illegal activity in connection with performance of the Services;

7.11.5.1.4 Bankruptcy; or

7.11.5.1.5 material breach of any provision of the this Agreement or the Grant Agreement.

7.11.5.2 “**Grant Agreement**” means the Grant Agreement entered into among the Service Member, LLC and other parties thereto in connection with the grant of an equity bonus under the 2014 Service Member Equity Incentive Plan.

7.11.5.3 “**Services**” means the services to be provided by a Service Member to the LLC, as more particularly described in the Grant Agreement.

APPENDIX 7.2

Noncompetition, Nonsolicitation and Confidentiality Provisions

- A. Mountain West Retirement Corporation manages the operations of numerous assisted living communities, independent senior housing communities and memory care/Alzheimer's communities in Oregon, Washington and Colorado as of the date hereof, including the senior housing community either owned or operated by LLC ("**Facility**"), and intends to manage the operations of numerous additional communities in Oregon, Washington, Colorado, and possibly other states in the future (all such communities, whether existing, in development or identified now or in the future, the "**Managed Communities**"). Mountain West Senior Housing LLC is developing and intends to develop, and Mountain West Community Construction LLC is constructing and intends to continue constructing, additional Managed Communities.
- B. Each Service Member's agreement to these Noncompetition, Nonsolicitation and Confidentiality Provisions is a condition to each Service Member's receipt of Membership Units.
- C. For purposes of these Noncompetition, Nonsolicitation and Confidentiality Provisions, "Company" means LLC, Mountain West Senior Housing LLC, Mountain West Retirement Corporation, Mountain West Community Construction LLC and Bonaventure of Medford, collectively.

AGREEMENT:

- 1) **Status.** If Service Member is an employee of the Company, Service Member understands and agrees that nothing provided herein will affect the "at will" nature of the employment relationship, which may be terminated by either party at any time for any or no reason, with or without cause and with or without advance notice. In particular, this Agreement does not promise or guarantee any continuation of employment for a particular period of time. If Service Member is a consultant to the Company, nothing in this Agreement will place any additional obligations on the Company with respect to the consultant relationship. Service Member warrants and represents that Service Member has entered into no agreements, written or oral, with any third party that would impair or restrict Service Member's ability to fulfill Service Member's duties under these Noncompetition, Nonsolicitation and Confidentiality Provisions and that Service Member has not unlawfully taken any confidential or proprietary information or any trade secrets from any third party.
- 2) **Nonsolicitation and Noncompetition.**
 - a) **Definition of Restricted Period.** "Restricted Period" means the period ending 60 months after the date that a certificate of occupancy is issued for the Facility.
 - b) **Nonsolicitation of Employees and Consultants of Managed Communities.** Service Member acknowledges that Company's workforce is a vital part of its business. Service Member agrees that, during the Restricted Period, Service Member will not, directly or indirectly: (i) induce or attempt to induce any employee, consultant, or independent contractor of the Company to leave the employ of or terminate his/her/its contract with the Company; (ii) in any way interfere with the relationship between the Company and any employee, consultant, or independent contractor of the Company; or (iii) employ, or otherwise engage as an employee, consultant, or independent

contractor, or otherwise, any employee, consultant, or independent contractor of the Company (or any person who was an employee, consultant, or independent contractor of the Company within the previous 6 months).

- c) **Nonsolicitation of Residents of Managed Communities.** Service Member acknowledges that the solicitation of the residents of the Managed Communities who were residents of the Managed Communities during or after Service Member's employment or consultant relationship with the Company, will cause irreparable harm to the goodwill of the Company. Service Member agrees that, during the Restricted Period, Service Member will not, directly or indirectly: (i) induce or attempt to induce any resident of the Managed Communities to leave the Managed Community; or (ii) in any way interfere with the relationship between the Company and any resident of the Managed Communities.
- d) **Noncompetition.** Service Member agrees that during the Restricted Period Service Member will not, directly or indirectly, have any business dealings or contacts, or be an employee, employer, consultant, contractor, officer, director, manager, partner, or trustee, or shareholder, member or equity owner beneficially owning more than 1% of the outstanding capital stock or equity interest of, any person or entity, as applicable, that develops, owns or operates an assisted living community, independent senior housing community (defined as housing intended to be solely occupied by those 62 years of age or older, or housing that has at least 80 percent of its units occupied by at least one person who is 55 years or older), or memory care/Alzheimer's community within 60 miles of any of the Managed Communities.
- e) **Enforcement of Nonsolicitation and Noncompetition Provisions.** In the event of a breach or threatened breach by Service Member of this Section 2, the Company will be entitled to all remedies under law and equity, including but not limited to (i) purchase of Service Member's Membership Units in accordance with Section 7.11 of Appendix 7.1, and (ii) an injunction, with a bond set at no greater than \$2,000.00. Service Member acknowledges that the breach or threatened breach of this Section 2 would cause irreparable harm that will not adequately be compensated by money damages. Service Member further acknowledges that Service Member's experience and capabilities are such that Service Member can obtain employment in business activities that do not violate this Agreement upon termination of employment or Service Member's consultant relationship and that this Agreement will not prevent Service Member from earning a reasonable livelihood. Service Member agrees that the provisions of this Section 2 are necessary for the protection of the Company's legitimate business interests and are reasonable in scope and content. Should the court find that any provision of this Section 2 is unreasonable, invalid or unenforceable, then the parties agree that the court may interpret and enforce these Noncompetition, Nonsolicitation and Confidentiality Provisions to the maximum extent that the court deems reasonable.

3) **Confidential Information.**

- a) **Definition of Confidential Information.** “Confidential Information” includes, but is not be limited to the following information of the Company, whether transmitted or accessed orally, in writing or in another form of media:
- i) Financial information, including without limitation, budgets, occupancy reports, business plans, private placement offering documents, investor names and other contact information, and pro formas for potential projects;
 - ii) Marketing information, including without limitation, marketing manuals, marketing and census development training manuals, marketing tools, marketing forms, and resident satisfaction surveys;
 - iii) Operations information, including without limitation, personnel policies and procedures manuals, employee handbooks, supervisor handbooks, resident and resident- family-and- friend contact lists, menus and recipes, training manuals for memory care/Alzheimer’s caregivers, assisted living caregivers and medication aides, administrators, administrators-in-training, department heads, food service personnel, and health services;
 - iv) Development information, including without limitation, demographic studies, lists of prospective sites, projects under construction, architectural drawings, plans and specs; and,
 - v) Any and all information on or about the Company’s WAN/Portal, including without limitation, lists of residents and employees of the Company.
- b) **Service Member's Obligations.** The Company has disclosed, or proposes to disclose, Confidential Information to Service Member. Service Member agrees that Confidential Information is to be considered confidential and proprietary to the Company. Service Member further agrees that Service Member will hold Confidential Information in confidence, and other than for the purposes of Service Member’s business with the Company, Service Member will not use or disclose the Confidential Information to third parties unless Service Member must do so pursuant to subpoena power. Service Member understands that the term, “third parties,” includes competitors of the Company and/or future employers or business relations of Service Member. Confidential Information furnished in tangible form will not be duplicated by Employee. Upon the request of the Company, Service Member will return all Confidential Information received in written or tangible form, including copies or reproductions or other media containing such Confidential Information, within ten (10) days of the Company’s request, unless that request is made upon the expiration of Service Member’s employment or consultant relationship with the Company, in which case Service Member will return all Confidential Information immediately.
- c) **Other Information.** Service Member will have no obligation under this Section 3 with respect to Confidential Information which is, or becomes publicly available, without breach of this Agreement by Service Member or which is rightfully received by Service Member without obligations of confidentiality. However, such Confidential Information will not be disclosed until thirty (30) days after written notice of intent to disclose is given to the Company, together with the name of the third party to whom Service Member intends to disclose the Confidential Information and the asserted grounds for disclosure.

- d) **Term.** The obligations of Service Member under this Section 3 will begin on the date Service Members is admitted to LLC and terminate on the last date on which the Company is in the business of acquiring, developing, constructing, managing and/or operating retirement, assisted living and/or memory care/Alzheimer's communities, regardless of whether Service Member is still a Service Member.
- 4) **Saving Provision.** Service Member acknowledges and agrees that the covenants contained in these Noncompetition, Nonsolicitation and Confidentiality Provisions are necessary for the protection of the Company's legitimate business interests and are reasonable in duration, geographic scope, and other content. However, in the event a court of competent jurisdiction should decline to enforce any term of such covenants in accordance with their terms, such covenants will be deemed to be modified to restrict Service Member's activities to the maximum duration, geographic scope, and other content that the court finds enforceable.