

TRANSFER

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RECEIVED

MAR 24 2003

1300 South Evergreen Park Drive SW, PO Box 47250  
Olympia Washington 98504-7250  
Toll Free (888) 606-9566 or 360-664-1222  
Fax (360) 586-1181 or (360) 586-1118

WASH. UT & TP COMM

APPLICATION FOR CHARTER BUS/EXCURSION SERVICE CERTIFICATE

0018192

Fee: \$150.00

111 0268 232 01	150 -	CID	41171	CHA	79138
111 0268 232 02		DATE	3/24/03	SAFETY INSP	JK
111 0268 232 03		STAMPS	JK	INS/BOND	JK
111 0268		Docket # TE-031137			

THIS APPLICATION IS FOR:

(Check One Only)

CHARTER BUS CERTIFICATE

EXCURSION SERVICE CERTIFICATE

NAME OF APPLICANT Noah's Ark Transportation LLC

D/B/A- NOAH'S ARK

MAILING ADDRESS 7014 180th St SE  
Snohomish, WA  
98296

PHYSICAL ADDRESS 7014 180th St SE  
Snohomish, WA  
98296

BUSINESS TELEPHONE NUMBER (425) 487-1643

FAX NUMBER (360) 687-7588

UBI # 602-267-799

E-MAIL noahsarkseattle@yahoo.com

IF APPLICANT IS A CORPORATION, LIST NAME, TITLES, AND PERCENTAGE OF STOCK OF PRINCIPAL SHAREHOLDERS. IF APPLICANT IS A PARTNERSHIP, LIST NAMES, ADDRESSES, AND PERCENTAGE OF INTEREST OF ALL PERSONS HAVING AN EQUITY IN THE BUSINESSES:

X

IF APPLICANT HOLDS ANY OTHER CERTIFICATE OR PERMIT WITH THE COMMISSION, LIST PERMIT NUMBERS:

EQUIPMENT LIST: see addendum

LICENSE NUMBER	YEAR AND MAKE OF VEHICLE	SERIAL NUMBER (VEHICLE IDENTIFICATION NUMBER)	SEATING CAPACITY

<b>License Number</b>	<b>Year &amp; Make of Vehicle</b>	<b>Serial Number Vehicle ID #</b>	<b>Seating Capacity</b>
A48351P	1990 - Setra	WKK138JA2L1030187	49
A48352P	1990 - Setra	WKK138JA9L1030199	49
A48350P	1989 - Setra	WKK138JA1K1030101	49
	1990 - Setra	WKK138JAX11030216	49
85574PR	1997 - Vanhool	YE2TA61B5V204007	51
83739PR	1998 - Vanhool	YE2A61B1W2040054	51
83740PR	1999 - Vanhool	YE2TA61BXX2040118	51
87920PR	1999 - Vanhool	YE2TC63B8X2043395	57
87921PR	1999 - Vanhool	YE2TC63BXX2043396	53
83741PR	1998 - Vanhool	YE2TC61B14W2043122	57
83742PR	1998 - Vanhool	YE2TC61B0W2043120	57
72072PR	2000 - Vanhool	YE2TC12B6Y2043854	57
A17393P	1998 - Vanhool	YE2TC62B4W2043507	57
83743PR	1998 - Vanhool	YE2TC61B7W2043065	61

DESCRIBE OPERATIONS (Territory) CHARTER MOTORCARRIAGE OPERATIONS THROUGH  
THE CENTRAL + WESTERN US

**SAFETY COMPLIANCE REVIEW AND QUESTIONNAIRE:**

**GENERAL**

	YES	NO	N/A
Do you have a copy of the laws and rules relating to passenger charter and excursion service carriers?..	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have you been cited within the last three years by the Commission for violations of its rules or laws?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If Yes, explain: \_\_\_\_\_

Are you familiar with the state motor carrier safety rules?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will management review the carrier's compliance status on a periodic basis?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**NOTIFICATION AND REPORTING OF ACCIDENTS**

	YES	NO	N/A
Are you familiar with the Commission accident reporting rule? .....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you take any action against drivers involved in preventable accidents?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PART 391 - QUALIFICATION OF DRIVERS**

	YES	NO	N/A
Do you have written hiring policies/procedures that are being followed when hiring new drivers?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are oral interviews conducted with new drivers to verify information submitted on their applications?..	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you have a system established to ensure drivers' medical certificates remain current?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you verify that physicians completing medical certifications are knowledgeable about the instructions for performing and recording driver physical examinations?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you review the results of the health history and physical examination?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you have a system established that will ensure drivers' operating licenses remain current?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you have a system established that will ensure drivers' annual reviews and annual record of violations remain current?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you comply with the road test provisions of Section 391.31?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Can you maintain and produce complete driver qualification files on drivers?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PART 392 - DRIVING OF MOTOR VEHICLES**

	YES	NO	N/A
Do you have established procedures concerning the use of alcohol and drugs?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Do you have a policy for monitoring speed?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PART 395 - HOURS OF SERVICE OF DRIVERS**

	YES	NO	N/A
Can you explain the hours of service limitations, i.e., 10, 15, 60 in 7, 70 in 8?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you file records of duty status in systematic manner?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will drivers be required to complete recaps of their records of duty status?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will dispatchers be aware of drivers= hours of service prior to trip?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will other independent records be compared to drivers records of duty status for accuracy?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you have a system for recording hours of duty status on 100 mile radius drivers?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you have a disciplinary policy for noncompliance with Part 395?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PART 396 - INSPECTION, REPAIR AND MAINTENANCE**

	YES	NO	N/A
Will you have written procedures explaining a systematic, periodic maintenance program?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you periodically review maintenance records for all equipment?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you comply with the vehicle inspection procedure?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you train drivers to perform pre-trip inspections?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you maintain the prior three months vehicle inspection reports on a vehicle?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Will you maintain a complete maintenance file on all vehicles?.....	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

THE UNDERSIGNED APPLICANT REQUESTS THAT THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION MAKE ITS ORDER GRANTING A CERTIFICATE TO OPERATE AS A CHARTER PARTY OR EXCURSION SERVICE CARRIER AS PROVIDED FOR IN RCW 81.70 AND WAC 480-40

Dated at: Snohomish, Washington, 03-18-03  
(City or Town) (Month/Day/Year)

NOAH'S ARK TRANSPORTATION LLC  
(Name of applicant)

By: Ralph F. [Signature]  
(Signature)

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

3-18-03 Snohomish  
(Date and Place)

Ralph F. [Signature]  
(Signature)

# MEMO

July 9, 2003

TO: Washington Utilities and Transportation Commission

FAX NO. 360 586 1181

ATTENTION: Linda

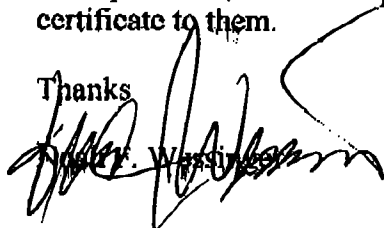
FROM: Wessingers Noahs Ark Motor Coaches  
Noah F. Wessinger, Noah C. Wessinger and  
Patricia A Wessinger

SUBJECT: Authority to Operate as a Motor Carrier  
Certificate Number CH-394

Linda'

The Wessingers have sold their interest in the above named entity to Noah's Ark Transportation, LLC and by this memo, hereby make a voluntary release of this certificate to them.

Thanks



Noah F. Wessinger

FROM: Washington Utilities and Transportation Commission  
Transportation Operations  
PO Box 47250 Phone: (888) 606-9566  
Olympia, WA 98504-7250 Fax: (360) 586-1118

Date: 05-07-2003 Staff: Linda Elhardt

TO: CHA079138  
NOAH'S ARK TRANSPORTATION LLC  
NOAH'S ARK  
7014 - 180TH ST. SE  
SNOHOMISH, WA 98296

**Second Request**  
**Date: 5/7/03**  
**Initials LE**

Return this document with the completed/corrected items listed below for prompt processing of your application for operating authority.

X On March 25, 2003, we sent you a letter requesting regulatory fees; ~~safety inspection of your vehicle;~~ ~~a~~ Form E Certificate of Insurance; and ~~your~~ UBI number. As of this date, we still have not received any of this information. Please submit these items so that we may process your charter bus application.

6  
16 \* Don't finalize this transfer until we rec a letter from Patricia Wessinger authorizing the transfer of CH - 394 to Noah's Ark Transp. LLC

FROM: Washington Utilities and Transportation Commission  
Transportation Operations  
PO Box 47250 Phone: (888) 606-9566  
Olympia, WA 98504-7250 Fax: (360) 586-1118

Date: 03-25-2003 Staff: Linda Elhardt

TO: CHA079138  
NOAH'S ARK TRANSPORTATION LLC  
NOAH'S ARK  
7014 - 180TH ST. SE  
SNOHOMISH, WA 98296

Return this document with the completed/corrected items listed below for prompt processing of your application for operating authority.

You must remit regulatory fees for your vehicles. Please complete the form enclosed and return to our office with the correct payment.

Obtain a CVSA safety inspection of your vehicle (s) and remit a copy of the completed inspection form. You may contact Carolyn Caruso at (360) 664-1244 for an appointment.

Obtain a Uniform Motor Carrier Certificate of Insurance (Form E) from your insurance company. The insurance must show your name EXACTLY as it is shown above.

We need your Unified Business Identifier number (UBI#). If you don't have one, you need to contact the Dept. of Licensing at (360) 664-1400. We also need the name, titles and percentage of stock of your principal stockholders.

**Noah's Ark**  
8721 S 218<sup>th</sup> St  
Kent, WA 98031  
1-866-840-0757  
Fax: 253-872-7573

From the Desk of:  
**Melody Amatori:**

June 2, 2003  
Pages sent: 26

**To: Linda Elhardt**  
**Re: Request for transfer of WUTC #394 to Noah's Ark Transportation, LLC**

Following please find our UBI # and operating agreement. Karen Ingram of Hentschell & Associates will provide form E.

Thank you.



**Melody Amatori**  
**Manager, Western Region**





STATE OF WASHINGTON

# MASTER LICENSE SERVICE REGISTRATIONS AND LICENSES

UNIFIED BUSINESS ID #: 602 267 799  
BUSINESS ID #: 001  
LOCATION: 0001  
EXPIRES: 01-31-2004

ORGANIZATION TYPE  
DOMESTIC LIMITED LIABILITY COMPANY

NOAH'S ARK TRANSPORTATION, LLC  
NOAH'S ARK  
8712 S 218TH ST  
KENT WA 98032

TAX REGISTRATION  
MINOR WORK PERMIT

INDUSTRIAL INSURANCE  
UNEMPLOYMENT INSURANCE

DUTIES OF MINORS:  
WASHING AND DETAILING MOTORCOACHS \*MUST BE 16 TO WORK ABOVE GROUND LEVEL  
MAX. 10FT. & TO WORK IN MAINTENANCE, NO DRIVING\*

LICENSING RESTRICTIONS:  
MINORS EMPLOYED IN MAINTENANCE AND REPAIR WORK MUST BE AT LEAST 16  
YEARS OF AGE. (NOT BICYCLES) WAC 296-125-033 (5) (A)

REGISTERED TRADE NAMES:  
GREAT WESTERN JOURNEYS  
NATIVE AMERICAN JOURNEYS  
NOAH'S ARK  
NOAH'S ARK TRANSPORTATION  
NOAH'S ARK CHARTERS

The above entity has been issued the business registrations or licenses listed  
DEPARTMENT OF LICENSING, BUSINESS & PROFESSIONS DIVISION  
P.O. BOX 9034 OLYMPIA, WA 98507-9034 (360) 604-1400

*Paul Stephens*  
Director, Department of Licensing

0005605 AI

STATE OF WASHINGTON  
USER NUMBER 602 267 799 001 0001  
EXPIRATION DATE 01-31-2004  
NOAH'S ARK TRANSPORTATION, LLC  
NOAH'S ARK  
8712 S 218TH ST  
KENT WA 98032  
TAX REGISTRATION  
MINOR WORK PERMIT  
INDUSTRIAL INSURANCE  
UNEMPLOYMENT INSURANCE

*Paul Stephens*  
Director, Department of Licensing

DETACH THIS SECTION FOR YOUR WALLET

UNIFORM DRIVER/VEHICLE INSPECTION REPORT

1034197

PERSONNEL NO. 3531 DIST / DET

LEVEL: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 X

GENERAL			HAZARDOUS MATERIALS	
DATE <u>13</u> <u>6.13.03</u>	TIME (MILITARY) BEGUN <u>0825</u>	TIME (MILITARY) FINISHED <u>0900</u>	HAZARD CLASS / DIVISION NO.	
LOCATION: SR/MP <u>Kent Term.</u>		SCALEHOUSE NO. / CNTY CODE <u>17</u>	REPORTABLE QTY? Y N	HAZARDOUS WASTE? Y N
			PLACARD REQUIRED? Y N	CARGO TANKS? Y N

CARRIER 866-840-0757

CARRIER NAME (Include DBA when applicable)  
NOAH'S ARK TRANS. LLC (TRANSFER APP)

ADDRESS  
8721 S. 218th St

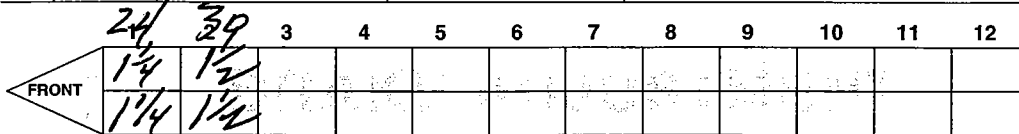
CITY <u>Kent</u>	STATE <u>WA</u>	ZIP CODE <u>98031</u>	INTERSTATE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DOT NO. <u>958988</u>	ICC NO.
---------------------	--------------------	--------------------------	---	--------------------------	---------

DRIVER

DRIVER NAME	LICENSE NO.	STATE	EXP. YEAR
DATE OF BIRTH	MED. CERT. Y N	SHIPPER NAME	SHIPPING NO.
	WAIVER Y N		

VEHICLE

REGISTERED OWNER NAME/ADDRESS <u>SAME</u>	G.V.W.	PBT RATE <u>47 PAX</u>			
UNIT	TYPE	YEAR/MAKE	CO. UNIT NO.	LICENSE NO. / VIN NO.	STATE
1	<u>BU</u>	<u>02 ACI</u>	<u>3602</u>	<u>WA Temp N144948</u>	<u>WA</u>
2					
3					
4					



CFR	VIOLATIONS	D	1	2	3	4	Unit # O/S	Complied

OCAL DECALS UNIT 8704008 UNIT 2 UNIT 3 UNIT 4 NOIC NO.

DRIVER SIGNATURE [Signature]

OFFICER SIGNATURE [Signature]

Vehicle may not be operated until O/S defects noted above are repaired.  
Driver may not drive until in compliance.

UNIFORM DRIVER/VEHICLE INSPECTION REPORT

1034198

PERSONNEL NO. <u>5531</u>	DIST / DET	LEVEL: 1 _____ 2 _____ 3 _____ 4 _____ 5 <u>X</u>
------------------------------	------------	---

GENERAL			HAZARDOUS MATERIALS		
DATE <u>6.13.03</u>	TIME (MILITARY) BEGUN <u>0902</u>	TIME (MILITARY) FINISHED <u>0937</u>	HAZARD CLASS / DIVISION NO.		
LOCATION: SR/MP <u>Kent Terminal</u>		SCALEHOUSE NO.	CNTY CODE <u>17</u>	REPORTABLE QTY? Y N	HAZARDOUS WASTE? Y N
				PLACARD REQUIRED? Y N	CARGO TANKS? Y N

CARRIER 866-840-0757

CARRIER NAME (Include DBA when applicable)  
NDAH'S Auto Trans. LLC (Transfer App)

ADDRESS  
8721 S. 218th St.

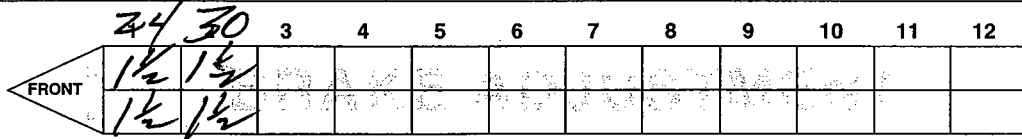
CITY <u>Kent</u>	STATE <u>WA</u>	ZIP CODE <u>98031</u>	INTERSTATE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	DOT NO. <u>958988</u>	ICC NO.
---------------------	--------------------	--------------------------	---	--------------------------	---------

**DRIVER**

DRIVER NAME	LICENSE NO.	STATE	EXP. YEAR
DATE OF BIRTH	MED. CERT. Y N	SHIPPER NAME	SHIPPING NO.
	WAIVER Y N		

**VEHICLE**

REGISTERED OWNER NAME/ADDRESS <u>Same</u>			G.V.W.	PBT RATE <u>47 PAX</u>	
UNIT	TYPE	YEAR/MAKE	CO. UNIT NO.	LICENSE NO. / VIN NO.	STATE
1	<u>BU</u>	<u>02 MC</u>	<u>3601</u>	<u>WA Temp N144947</u>	<u>WA</u>
2					
3					
4					



CFR	VIOLATIONS	D	1	2	3	4	Unit #s O/S	Complied

CVSA DECALS UNIT 1 <u>8704009</u>	UNIT 2	UNIT 3	UNIT 4	NOIC NO.
<p>____ Vehicle may not be operated until O/S defects noted above are repaired.          ____ Driver may not drive until in compliance.</p>		<p>DRIVER SIGNATURE </p> <p>OFFICER SIGNATURE </p>		

LIMITED LIABILITY COMPANY AGREEMENT

of

NOAH'S ARK TRANSPORTATION, LLC

Dated as of January 29, 2003

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**LIMITED LIABILITY COMPANY AGREEMENT  
OF  
NOAH'S ARK TRANSPORTATION, LLC**

This Limited Liability Company Agreement of NOAH'S ARK TRANSPORTATION, LLC, a Washington limited liability company (the "Company"), is made and entered into as of January 29, 2003, by and among those persons executing this Agreement as members (collectively, the "Members").

**AGREEMENT**

For and in consideration of the mutual covenants contained in this Agreement, the Members agree as follows:

**1. ORGANIZATION OF COMPANY**

**1.1 Name**

The name of the Company is NOAH'S ARK TRANSPORTATION, LLC.

**1.2 Formation of Company; Certificate of Formation**

The Members have formed the Company under and pursuant to the Washington Limited Liability Company Act, RCW 25.15 (the "Act," as defined in Section 0), by filing the Certificate of Formation (the "Certificate") for the Company with the Secretary of State of the State of Washington.

**1.3 Term**

The Company shall commence upon the filing of the Certificate with the Secretary of State of the State of Washington and shall have perpetual existence, unless earlier terminated and dissolved pursuant to Section 7.1.

**1.4 Registered Agent and Office**

The registered office of the Company in the state of Washington shall be at 800 Fifth Avenue, Suite 4000, Seattle, WA 98104. The registered agent of the Company is SEL, Inc. The registered office and registered agent of the Company may be changed by the Managers from time to time by filing an amendment to the Certificate in accordance with the Act.

**1.5 Purpose**

The purpose of the Company shall be (a) to acquire, operate and maintain a transportation business, which shall include the acquisition and maintenance of a fleet of transportation vehicles, (b) to engage in all other acts and things necessary, proper or advisable to effect and carry out its purpose and to operate its business, and (c) to engage in any other lawful business activity permitted by the Act.



**1.6 Defects as to Formalities**

No failure to observe any formalities or requirements of this Agreement, the Certificate or the Act shall be grounds for imposing personal liability on the Members or Managers for liabilities of the Company.

**1.7 Liability of Members and Managers to Third Parties; Reliance by Third-Party Creditors**

**1.7.1 Liability of Members and Managers**

Except as otherwise provided in the Act or in this Agreement, no Member or Manager shall be personally liable for any debt, obligation or liability of the Company, whether arising in contract or otherwise, solely by reason of being a Member or Manager of the Company.

**1.7.2 Reliance by Third Parties**

This Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and assigns. Specifically (but not by way of limitation), this Agreement is not intended for the benefit of any creditor of the Company or any other person. Except to the extent provided by applicable statute, and then only to that extent, no such creditor or third party shall have any rights under this Agreement or under any other agreement between the Company and any Member, either with respect to any contribution to the Company or otherwise.

**1.8 Defined Terms**

Capitalized terms used in this Agreement are defined in this Section 1.8 or elsewhere in this Agreement.

“Act” means the Washington Limited Liability Company Act, RCW 25.15, as amended from time to time.

“Agreement” means this Limited Liability Company Agreement as originally executed and as amended or restated from time to time.

“Capital Account” means, with respect to any Member, the account maintained for such Member determined as provided in Section 2.6.

“Capital Contribution” means, with respect to each Member, the amount of money and the gross fair market value of any property other than money contributed to the Company by such Member.

“Code” means the Internal Revenue Code of 1986, as amended, from time to time, or any corresponding provision or provisions of any succeeding law and any reference to a Section of the Code shall be deemed to include a reference to any successor provision thereto.

**1.8.1****“Distributable Cash”** means all cash

received by the Company, less the sum of the following to the extent paid or set aside by the Company: (i) all principal and interest payments on indebtedness of the Company and other sums paid or payable to lenders; (ii) all cash expenditures incurred incident to the normal operation of the Company’s business; and (iii) Reserves.

**“Majority”** means more than fifty percent (50%) of the then issued and outstanding Units entitled to vote on an issue; provided, however, there is more than one Member and if any one Member directly or indirectly owns or controls such amount, the concurrence of at least one other member who is not so owned or controlled shall be required to constitute such majority.

**“Manager”** means the person designated or selected to manage the affairs of the Company under Section 3.

**“Member”** means each of the parties who executes a counterpart of this Agreement and any successors or assigns.

**“Prime Rate”** means the per annum “prime rate” as published in the “Money Rates” Section of The Wall Street Journal, based on the rate so published for the date on which the event giving rise to the charging of interest arose. The interest so calculated shall be compounded monthly, and unless stated otherwise in this Agreement, the determination of the prime rate shall be adjusted each month based on the “prime rate” published in the “Money Rates” Section of The Wall Street Journal.

**“Profits” and “Losses”** means, for each fiscal year (or other period), an amount equal to the Company’s taxable income or loss for such fiscal year (or other 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) shall be included in taxable income or loss).

**“Regulations”** means the Treasury Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

**“Reserves”** means, with respect to any fiscal period funds set aside or amounts allocated during such period to reserves which shall be maintained in amounts deemed sufficient by the Manager for working capital (including capital to fund any planned or proposed acquisition of Company assets) and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company’s business.

**“Super Majority”** means at least [sixty-six and two-thirds percent (66 2/3%)] of the then issued and outstanding Units entitled to vote on an issue; provided, however, if there is

more than one Member, and if any one Member directly or indirectly owns or controls such amount, the concurrence of at least one other member who is not so owned or controlled shall be required to constitute such majority.

“Transfer” means, with respect to a Member, to do, to permit, or to agree to do or to permit any of the following: to voluntarily or involuntarily dispose of any right, title, or interest in Units including, without limitation, sell, exchange, assign, give, pledge, encumber, or transfer including transfers by operation of law, resulting from the death of a Member, or otherwise.

“Unit” or “Units” means ownership interests in the capital, income, gain, loss, deduction and credits of the Company expressed as a number of units in the Company. The percentage ownership interest in the Company of a Member or other person corresponds to the number of Units owned in proportion to the total number of Units then issued and outstanding. Each one Unit shall represent beneficial ownership in a proportional amount of each item of capital, income, gain, loss, deduction and credit of the Company. For example, if there are one hundred (100) Units, each Unit shall represent beneficial ownership of one percent (1%) of each and every item of capital, income, gain, loss, deduction and credit of the Company. Each Unit owned by a Member shall carry one vote. Units owned by a person who has not been admitted as a Member shall not entitle such person to vote or otherwise exercise any right or benefit of a Member except as provided in Section 8.12; provided, however such a person shall be entitled to the same interest in the capital, income, gain, loss, deduction and credits of the Company represented by the Units owned by such person as a Member would be.

#### **1.9 Fiscal Year and Tax Year**

The fiscal year and the tax year of the Company shall be the calendar year.

## **2. CONTRIBUTIONS**

#### **2.1 Initial Capital Contributions**

Each Member shall make an initial contribution to the capital of the Company in the amount set forth in Exhibit A and shall receive the number of Units described in Exhibit A therefor.

#### **2.2 Additional Capital Contributions**

In addition to Capital Contributions made pursuant to Section 2.1, Members shall make additional contributions to the capital of the Company at such times and in such amounts as shall be determined by the Managers with the approval of the Members owning a Super Majority of the Units.

#### **2.3 Enforcement of Commitments**

In the event a Member fails to make a Capital Contribution when due (a “Delinquent Member”), the following may occur.

### 2.3.1 Advance of Delinquent Capital Contribution

The Managers may allow the other Members to contribute their pro rata share of the amount of the delinquent Capital Contribution based on the number of Units owned by a contributing Member compared to the total number of Units owned by all Members making a contribution in response to the requested Capital Contribution (the "Contributing Members"). The Contributing Members shall be entitled to treat the amounts contributed pursuant to this Section 2.3.1 as a loan from the Contributing Members bearing interest at the Prime Rate secured by the Delinquent Member's Units in the Company. Until such loans are fully repaid, the Contributing Members shall be entitled to all distributions to which the Delinquent Member would have been entitled. No obligation to make a Capital Contribution may be enforced by a creditor of the Company unless the Member obligated to make such contribution expressly consents to such enforcement.

## 2.4 **Company Capital**

- a. No Member shall be paid interest on any Capital Contribution.
- b. No Member shall have the right to withdraw, or receive any return of, his or her Capital Contributions, except as may be specifically provided in this Agreement. No Member shall have priority over any other Member, either as to the return of his or her Capital Contributions or as to Profits, Losses or distributions, except as otherwise specifically provided in this Agreement.
- c. Under circumstances requiring a return of any Capital Contribution, no Member shall have the right to receive property, other than cash, except as may be specifically provided in this Agreement.
- d. A creditor who makes a nonrecourse loan to the Company shall not, as a result of making such a loan, have or acquire at any time any direct or indirect interest in the Profits, capital or property of the Company, except that, if security is given for such a loan, then the creditor may be a secured creditor.

## 2.5 **Loans**

The Company may borrow money from any Member upon such terms and conditions as may be agreed by the Managers and the Member. No such loan shall increase the interest of the Member making the loan in the capital of the Company or affect the Member's share of the Profits and Losses of the Company.

## 2.6 **Maintenance of Capital Accounts**

The Company shall establish and maintain Capital Accounts with respect to each Member in accordance with the following:

- e. Each Member's Capital Account shall be increased by (i) the Member's Capital Contributions, (ii) the Member's share of Profits as determined pursuant to Section 5.1,

(iii) the amount of any Company liabilities assumed by the Member, and (iv) the amount of any Company liabilities that are secured by any property distributed to that Member.

f. Each Member's Capital Account shall be decreased by (i) the amount of cash and the value of any Company property (other than cash) distributed to that Member pursuant to any provision of this Agreement, (ii) the Member's share of Losses as determined pursuant to Section 5.1, (iii) the amount of any liabilities of the Member assumed by the Company, and (iv) the amount of any liabilities that are secured by any property contributed by the Member to the Company.

g. If the Company at any time distributes any of its assets in kind to any Member, the Capital Accounts shall be adjusted to account for that Member's allocable share (as determined pursuant to Section 5.1) of the Profits or Losses that would have been realized by the Company had it sold the assets that were distributed at their respective fair market values immediately prior to their distribution.

h. In the event of a transfer of all or a portion of a Member's Units in the Company in accordance with the terms of this Agreement, a transferee shall succeed to the Capital Account of the transfer in proportion to the percentage of the Member's Units transferred to that transferee, but such transferee, unless already a Member, shall not become a Member except as otherwise provided herein.

i. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with those Regulations.

### 3. MANAGEMENT

#### 3.1 Management by Managers

The business and affairs of the Company shall be managed by managers appointed in accordance with this Section 3 (each, a "Manager"). A Manager must be a Member of the Company.

#### 3.2 Initial Manager

The initial Managers shall be Ralph Dreitzler III and Fredolena Dreitzler. Each initial Manager shall serve as a Manager until his or her death, resignation or removal from office pursuant to Section 3.3.1.

#### 3.3 Subsequent Manager

##### 3.3.1 Appointment and Removal

Each Manager shall be appointed or removed upon the approval of Members owning at least a Majority of the Units; provided, however, if a Manager ceases to be a Member for any reason, such Manager shall automatically be removed as a Manager.

### 3.3.2 Term

Subject to Section 3.3.1, Managers appointed pursuant to Section 3.3.1 shall hold office for a term expiring on their death, resignation or removal from office.

### 3.4 Authority of Managers

Subject to the limitations and restrictions set forth in this Agreement, the Managers shall have the sole and exclusive right to manage the day-to-day business of the Company. If there is more than one Manager, decisions shall require the approval of a majority of the Managers. The Managers, by separate resolution, may delegate responsibilities among themselves and develop procedures for holding meetings or otherwise fulfilling their management duties.

### 3.5 Restrictions on Authority of Managers

The Managers, including the initial Managers, shall not have authority to do or take any of the following actions without the approval of Members owning at least a majority of the Units:

- j. Sell, exchange or otherwise dispose of all or substantially all of the assets of the Company;
- k. Perform any act in contravention of this Agreement or that would make it impossible or unreasonably burdensome to carry on the business of the Company; or
- l. Consolidate or merge the Company with any other entity.

### 3.6 Rights of Members

Except as otherwise set forth in this Agreement, no Member shall have any right or power to take part in the management or control of the Company or its business affairs or to act for or bind the Company in any way.

### 3.7 Compensation

The Managers shall be entitled to reasonable compensation for services rendered to the Company in connection with the management and operation of the Company's business.

### 3.8 Reimbursement of Expenses

The Managers shall be reimbursed by the Company for all reasonable costs and expenses incurred on behalf of the Company. Members shall be reimbursed for such reasonable costs and expenses as are approved by the Managers.

### 3.9 Other Business of Members

The Members may engage in business ventures and activities of any nature and description, independently or with others. Neither the Company nor any of the Members shall by reason of their acquisition of an interest in the Company or their status as Members have any

rights in or to the independent ventures and activities of the other Members, or the income or profits derived therefrom.

### **3.10 Right of Company to Deal With Members**

The Company may, upon the approval of the Managers, enter into agreements, contracts or arrangements with one or more of the Members pursuant to which such Member or Members provide goods or services to the Company in connection with the Company's activities. The terms of such agreements, contracts or arrangements shall be those mutually agreed upon by the Managers and such Member or Members and shall be embodied in a written agreement.

## **4. DISTRIBUTIONS AND ALLOCATIONS**

### **4.1 Distributions**

Each year the Managers shall distribute to the Members all Distributable Cash as of the end of each year. The Managers shall use commercially reasonable efforts to distribute to each Member cash in an amount equal to his or her share of the taxable income of the Company for the prior fiscal year multiplied by the maximum federal income tax rate provided for individuals under the Code. The Company shall make those distributions to the Members no later than 90 days after the end of each fiscal year. The Managers may make such other distributions as they determine are appropriate in their discretion. Any distributions made pursuant to this Section 4.1 shall be made among the Members in proportion to the number of Units owned by each Member. If during such prior fiscal year ownership of Units changed, then, unless the transferor and transferee of such Units have agreed otherwise, the distribution allocable to those Units shall be apportioned between them in the same proportions as the allocation of the taxable income for the fiscal year in question.

### **4.2 Limitations on Distributions**

No distribution shall be made pursuant to Section 4.1 if, after the distribution is made, (a) the Company would be unable to pay its debts as they become due or (b) the liabilities of the Company (other than liabilities for which recourse of creditors is limited to specific assets of the Company) would exceed the fair market value of the Company's assets (net of any liabilities to which those assets may be subject).

## **5. ALLOCATIONS**

### **5.1 Profits and Losses**

After giving effect to the special allocations set forth in Sections 5.2 and 5.3, and any distributions for the fiscal year, Profits and Losses for any fiscal year shall be allocated among the Members and any other persons owning Units in accordance with the number of Units owned.

## 5.2 Special Allocations

The following special allocations shall be made for any fiscal year of the Company in the following order.

### 5.2.1 Minimum Gain Chargeback

If there is a decrease in the Company's "partnership minimum gain," as defined in and determined under Treasury Regulations Sections 1.704-2(b)(2) and 1.704-2(d), the minimum gain chargeback provisions of Treasury Regulations Section 1.704-2(f), which are incorporated into this Agreement by this reference, shall be applied.

### 5.2.2 Member Minimum Gain Chargeback

If there is a decrease in any Member's share of "partner nonrecourse debt minimum gain," as defined in and determined under Treasury Regulations Section 1.704-2(i), the partner nonrecourse debt minimum gain chargeback provisions of Treasury Regulations Section 1.704-2(i)(4), which are incorporated into this Agreement by this reference, shall be applied.

### 5.2.3 Qualified Income Offset

In the event that any Member unexpectedly receives any adjustments, allocations, or distributions described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain shall be specially allocated to such Member in accordance with Treasury Regulations Section 1.704-1(b)(2)(ii)(d).

### 5.2.4 Nonrecourse Deductions

"Nonrecourse deductions," as defined in and determined under Treasury Regulations Sections 1.704-2(b)(1) and (c), shall be allocated among the Members in proportion to their Capital Contributions.

### 5.2.5 Member Nonrecourse Deductions

"Partner nonrecourse deductions," as defined in and determined under Treasury Regulations Sections 1.704-2(i)(1) and (2), shall be specially allocated among the Members in accordance with Treasury Regulations Section 1.704-2(i).

## 5.3 Corrective Allocations

The allocations set forth in Section 5.2 are intended to comply with certain regulatory requirements under Code Section 704(b). The Members intend that, to the extent possible, all allocations made pursuant to such Section will be offset either with other allocations pursuant to Section 5.2 or with special allocations of other items of Company income, gain, loss, or deduction pursuant to this Section 5.3. Accordingly, the Managers are hereby authorized and directed to make offsetting allocations of Company income, gain, loss or deduction under this Section 5.3 in whatever manner the Managers determine is appropriate so that, after such



offsetting special allocations are made (and taking into account the reasonably anticipated future allocations of income and gain pursuant to Sections 5.2.4 and 5.2.5), the Capital Accounts of the Members are, to the extent possible, equal to the Capital Accounts each would have if the provisions of Section 5.2 were not contained in this Agreement and all income, gain, loss and deduction of the Company were instead allocated in accordance with the provisions of Section 5.1.

**5.4 Other Allocation Rules**

**5.4.1 General**

Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, credit, and any other allocations not otherwise provided for shall be allocated in accordance with the number of Units owned, or as otherwise may be required under the Code and the regulations thereunder.

**5.4.2 Allocation of Excess Nonrecourse Liabilities**

Solely for purposes of determining a Member's proportionate share of the "excess nonrecourse liabilities" of the Company within the meaning of Treasury Regulation Section 1.752-3(a)(3), the Members' interests in the Company's Profits shall be in accordance with the allocation of Profits among the Members pursuant to Section 5.1.

**5.4.3 Allocations in Connection With Varying Interests**

If during a Company fiscal year, there is (a) a permitted transfer of a Member's interest, or (b) the admission of a Member, then Profit, Loss, each item thereof and all other tax items of the Company for such fiscal year shall be divided and allocated among the Members by taking into account their varying interests during such fiscal year in accordance with Code Section 706(d) and using any conventions permitted by law and selected by the Members. Neither the Company nor any Member shall incur any liability for making allocations and distributions in accordance with the provisions of this Section 5.4.3, whether or not any Member or the Company has knowledge of any Transfer of ownership of any interests.

**5.5 Code Section 704(c) Gain or Loss**

In the event of a sale, exchange or other disposition of an asset upon which gain or loss is recognized for federal income tax purposes if an asset was contributed to the Company by a Member, which at the time of contribution had a fair market value (as reflected at the time in such Member's Capital Account) in excess of the contributor's adjusted tax basis for federal income tax purposes, gain or loss recognized on such sale, exchange or other disposition, to the extent of such difference, shall be specially allocated to the contributing Member or his or her successor in interest in accordance with Section 704(c) of the Code and the applicable Treasury Regulations promulgated thereunder. Such gain or loss so specially allocated shall not increase or decrease the Member's (or successor's) Capital Account.

## 6. INDEMNIFICATION

### 6.1 Indemnification

To the fullest extent allowable by law, the Company shall indemnify, defend and hold harmless each Member and Manager of the Company from and against any and all losses, claims, demands, costs, damages, liabilities, expenses of any nature (including attorneys' fees and disbursements), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, in which a Member or Manager may be involved, or threatened to be involved, as a party or otherwise, arising out of or incidental to any business of the Company transacted or occurring while that Member was a Member or that Manager was a Manager, as the case may be, regardless of whether the Member or Manager continues to be a Member or Manager of the Company at the time any such liability or expense is paid or incurred. No Member shall have any personal liability beyond their respective Capital Contributions with respect to the satisfaction of any required indemnification of the persons mentioned in this Section 6.

### 6.2 Nonexclusivity of Rights

The indemnification provided by this Section 6 shall be in addition to any other rights to which those indemnified may be entitled under any agreement or vote of the Members, as a matter of law or equity, or otherwise, and shall continue as to a Member or Manager who has ceased to serve in that capacity, and shall inure to the benefit of the heirs, successors, assigns and administrators of the Member or Manager so indemnified.

### 6.3 Indemnification of Employees and Agents

The Managers may cause the Company to indemnify and advance expenses to an employee or agent of the Company to the same extent and subject to the same conditions under which it may indemnify and advance expenses to Members and Managers under this Section 6.

## 7. DISSOLUTION OF COMPANY

### 7.1 Dissolution

The Company shall be dissolved upon ~~[the vote of a Super Majority]~~ **[a unanimous vote of the Members]** to that effect. The occurrence of any of the events specified in Section 8.15 or RCW 25.15.130, which cause the dissociation of a Member or cause a Member to cease to be a Member of Company, shall not cause the dissolution or termination of the Company. No consent of the remaining Members of the Company to continue the business of the Company shall be necessary or required.

### 7.2 Liquidation

m. Upon a dissolution of the Company, the Managers or a court-appointed trustee shall take full account of the Company's assets and liabilities, and the Company's property shall be liquidated as promptly as is consistent with obtaining its fair value. The

proceeds from the liquidation, to the extent they are sufficient, shall be applied and distributed in the following order and priority:

- (i) First, to the payment and discharge of all of the Company's debts and liabilities (other than those to the Members), including the establishment of any necessary reserves;
- (ii) Second, to the payment of any debts and liabilities to the Members; and
- (iii) Finally, any remaining property and assets of the Company shall be distributed among the Members in accordance with their positive Capital Account balances.

n. The Capital Account balances of each Member shall be appropriately adjusted, before any distributions are made pursuant to this Section 7.2, to reflect sales or other dispositions by the Company giving rise to Capital Account adjustments and to reflect the Capital Account adjustments provided elsewhere under this Agreement. Profits and Losses resulting from a liquidation, if any, shall be allocated among the Members as provided for in Section 5.1. If any assets of the Company are to be distributed in kind, those assets shall be distributed to the Members in the percentages of ownership that reflect the percentage shares of cash that would have been distributed to each pursuant to this Section 7.2 had the asset been sold at its fair market value.

o. Each Member shall look solely to the assets of the Company for all distributions with respect to the Company, including the return of a Member's Capital Contributions and a Member's share of cash, and shall have no recourse therefor, upon dissolution or otherwise, against the Company or any other Member. No Member shall have any right to demand or receive property other than cash upon dissolution and termination of the Company.

### **7.3 Deficit Capital Accounts**

Except as may otherwise be required by law or any other agreement to the contrary, notwithstanding anything to the contrary contained in this Agreement, to the extent that any Member has a deficit Capital Account balance upon dissolution of the Company, that deficit shall not be an asset of the Company and that Member shall not be obligated to contribute that amount to the Company to bring the balance of that Member's Capital Account to zero.

### **7.4 Waiver of Partition**

No Member, either directly or indirectly, shall take any action to require partition of the Company or any of the property or assets of the Company or cause the sale of all or any portion of the property or assets of the Company. Notwithstanding any provision of applicable law to the contrary, each Member (and his, her or its successors and assigns) hereby irrevocably waives any and all right to maintain any action for partition or to compel any sale with respect to any Units, or with respect to any of the assets or property of the Company, except as expressly provided in this Agreement.

**8. RESTRICTIONS ON TRANSFER OF UNITS; WITHDRAWAL**

**8.1 Voluntary Transfers**

A Member shall not Transfer any Units owned by him or her except as follows:

- p. Transfers permitted by Section 8.3;
- q. Transfers made in accordance with Section 8.9 after the Member has made an offer to sell the Units pursuant to Section 8.6 and the Company and the other Members have not accepted such offer pursuant to Section 8.7; and
- r. Transfers made in accordance with Section 9.

No transferee shall be admitted as a Member except in accordance with Section 8.13.

**8.2 Deemed Transfers**

**8.2.1 Marriage Dissolution**

Any disposition or proposed disposition of Units owned by a Member to his or her spouse pursuant to a property settlement agreement or by court decree in connection with any marriage dissolution, divorce or annulment proceeding involving a Member shall be deemed a proposed Transfer of such Units and an Offer to sell such Units pursuant to Section 8.6.2; provided, however, that such a disposition or proposed disposition to a spouse who is, prior to such disposition, already a Member shall not be deemed to be such a proposed Transfer. The date on which the Company receives actual notice of the execution of a property settlement agreement or of the entry of a court order, whichever is later, shall be deemed to be the date on which the Offer to sell is received by the Company and the date from which the time periods described in Section 8.7 begin to run.

**8.2.2 Bankruptcy**

The filing of a petition for the voluntary or involuntary bankruptcy of a Member (unless such petition is dismissed within 30 days after the date of filing) shall be deemed a proposed Transfer of the Units owned by such Member and an Offer to sell such Units pursuant to Section 8.6.2. The date on which the Company or the other Members, as the case may be, receive notification of such filing shall be deemed to be the date on which the Offer to sell by the bankrupt Member is received and the date from which the time periods described in Section 8.7 begin to run.

**8.2.3 Death of a Member**

The death of a Member shall be deemed a proposed Transfer of the Units owned by such Member and an Offer to sell such Units pursuant to Section 8.6.2 unless such proposed Transfer is a Permitted Transfer under Section 8.3. Any transfer of such shares by the estate of the deceased Member shall be subject to the terms of this Agreement and to the restrictions on disposition described herein as if such estate constituted a Member. The date on which the

Company receives actual notice of the Member's death shall be deemed to be the date on which the Offer to sell is received and the date from which the time periods described in Section 8.7 begin to run.

### **8.3 Permitted Transfers**

Except for Transfers discussed in Section 8.2.1, the restrictions on Transfers of Units set forth in this Agreement shall not apply to the following Transfers ("Permitted Transfers"), which may take place after the date of this Agreement:

s. The Transfer of Units to a Member's spouse or surviving spouse, or to any natural or adoptive lineal descendants of any Member.

t. The Transfer of Units to trusts or custodianships under the Washington Uniform Transfers to Minors Act or under similar laws of another jurisdiction, for the benefit of (i) any Member, (ii) any Member's natural or adoptive lineal descendants, or (iii) the spouse or surviving spouse of any Member.

u. The Transfer of Units by any trust or custodianship referred to in Section 8.1.q to its respective beneficiaries.

### **8.4 Transferred Units Remain Subject to this Agreement**

If any Units are Transferred, whether or not in accordance with this Agreement, the transferee and transferee's spouse, if applicable, shall receive and hold the Units so transferred subject to this Agreement and subject to the obligations of the transferor hereunder.

No Permitted Transferee shall be admitted as a Member except in accordance with Section 8.13.

### **8.5 No Other Transfers Effective**

Except for Permitted Transfers, no Transfer of Units shall be effective, and the Company shall not record or recognize any such Transfer, unless and until there has been full compliance with this Agreement. If no Offer is made as herein required, the Company and the Members may nevertheless exercise their rights hereunder as to Units being Transferred, and they may do so at any time, even after the purported Transfer of the Units.

### **8.6 Offer by Member**

#### **8.6.1 Voluntary Offer**

A Member desiring to Transfer Units owned by him or her (the "Offering Member") shall first offer to sell such Units to the Company and to the other Members. Such offer (the "Offer") shall consist of a written notice to the Company and the other Members, offering to sell the Units that pertain to the proposed Transfer (the "Offered Units"), and shall include (a) a statement of intention to Transfer; (b) the name and address of the prospective transferee; (c) the number of

Units proposed to be Transferred; and (d) the terms of the proposed Transfer, including the purchase price and payment terms for the Offered Units.

**8.6.2 Offer Resulting from Deemed Transfer**

A Member whose Units are the subject of a deemed Transfer as set forth in Section 8.2 also shall be considered to be an Offering Member, the Units that are the subject of the deemed Transfer shall be considered the Offered Units, and the Offer to sell the Offered Units shall be deemed received by the Company and the other Members on the date specified in the applicable provision of Section 8.2.

**8.7 Procedures for Acceptance of Offer**

**8.7.1 By Company**

Within 30 days after its receipt of the Offer, the Company, at its option, may accept the Offer as to all or some of the Offered Units by giving written notice to the Offering Member or his or her legal representative and to the other Members of the number of Units that the Company is electing to purchase.

**8.7.2 By Other Members**

v. If the Offer is not accepted by the Company as to all the Offered Units, the Members other than the Offering Member, at their option, may elect to purchase the Offered Units that the Company has not elected to purchase (the "Remaining Units"). Each such Member shall exercise the option hereunder by giving to the Offering Member or his or her legal representative, to the Company and to the other Members written notice of his or her election to purchase all or a specified number of the Remaining Units (an "Election Notice"). Such an Election Notice must be given within 45 days after receipt by the Company of the Offer. Members electing to purchase all or a portion of the Remaining Units shall be referred to as "Electing Members."

w. If the total number of Units specified in the Election Notices exceed the number of Remaining Units, each Electing Member shall have priority, up to the number of Units specified in his or her Election Notice, to purchase such proportion of the Remaining Units as the number of Units that he or she owns bears to the total number of Units owned by all Electing Members. The Remaining Units not allocated to Electing Members on such a priority basis shall be allocated in one or more successive allocations to those Electing Members who have elected to purchase more than the number of Units to which they have a priority right, up to the number of Units specified in their respective Election Notices, in the proportion that the number of Units owned by such Electing Members bears to the number of Units owned by all of them. Successive allocations, if any, shall be completed within fifty (50) days after receipt by the Company of the Offer.

x. Promptly after expiration of the time periods set forth in this Section 8.7.2 for exercising elections to purchase the Remaining Units, the Company shall notify each Electing Member of the number of Remaining Units as to which his or her election was effective.

### **8.8 Purchase and Sale Upon Acceptance of Offer**

If an Offer made pursuant to Section 8.6 is accepted by the Company or by the other Members (or by both) as to all of the Offered Units, the Company and the Electing Members, each to the extent they elected to purchase the Offered Units and to the extent their elections were effective (the "Purchasers"), shall purchase and the Offering Member (the "Selling Member") shall sell the Offered Units pursuant to the applicable provisions of this Section 8.

### **8.9 Transfer Permitted Upon Rejection of Offer**

y. If an Offer made pursuant to Section 8.6.1 is not accepted by the Company or by the other Members (or by both) as to all the Offered Units, then the Offering Member may Transfer the Offered Units that the Company and the Electing Members have not agreed to purchase to the prospective transferee named in the Offer, but only in strict accordance with the terms set forth in the Offer, and such Transfer must be completed within 90 days following the expiration of the time provided for the election by the other Members to purchase the Offered Units. If such Transfer is not completed within such 90-day period, the Offered Units again shall be subject to the restrictions set forth in this Agreement.

z. If an Offer made pursuant to Section 8.6.2 is not accepted by the Company or by the other Members (or by both) as to all the Offered Units, then the Offered Units that the Company and the Electing Members have not agreed to purchase may be Transferred in accordance with the terms of the deemed Transfer, after which time any subsequent Transfers again shall be subject to the restrictions set forth in this Agreement.

### **8.10 Purchase Price Upon Voluntary Transfer**

If an Offer is made by the Offering Member pursuant to Section 8.6.1, the purchase price of each of the Offered Units shall be the price per Unit set forth in the Offer. The purchase of such Units shall be on the same additional terms and conditions set forth in the Offer, except that the date of closing shall be 45 days after acceptance of the Offer, and any Purchaser, at his or her sole option, may elect to pay the purchase price over a period of five years as described in Section 8.12. If the consideration for the proposed sale includes property other than cash, the value of such property for purposes of determining the proposed purchase price shall be deemed to be the fair market value of such property at the time the Offer described in Section 8.6.1 is made or on the date of closing, whichever is less. The good faith decision of the Managers as to the fair market value of such property shall be binding on all parties.

### **8.11 Purchase Price Upon Deemed Transfers**

If an Offer is made by the Offering Member pursuant to Section 8.6.2, the purchase price of each of the Offered Units shall be determined by mutual agreement of the affected parties or, absent agreement, by appraisal of the Units, as determined by an independent appraiser selected by the Managers. Such appraisal shall take into account an appropriate discount for lack of marketability or minority interest. The costs associated with the appraisal shall be borne 50 percent by the Selling Member and 50 percent by the Purchasers in proportion to the number of Units being purchased by each Purchaser. A Purchaser, at his or her sole option, may elect to pay the purchase price over a period of up to five years as described in Section 8.12.

### **8.12 Payment of Purchase Price**

Each Purchaser in any transaction described in Section 8.10 or Section 8.11 who elects to do so shall pay his or her pro rata portion (based on the total number of Offered Units to be purchased by each Purchaser) of ten percent (10%) of the total purchase price in cash at the closing and the balance by means of a promissory note bearing interest at the Prime Rate fixed as of the last business day preceding the closing, and such Prime Rate shall not be adjusted or redetermined absent written agreement of the concerned parties. The principal amount of such note shall be payable in cash in no more than five equal annual installments beginning one year after the closing. Each annual installment shall include principal plus interest accrued to the date of payment. Principal and interest may be prepaid from time to time without premium or penalty.

### **8.13 Admission of Transferee as Member**

A transferee or other assignee of a Member's Units, who is not already a Member, shall become a Member of the Company only if (a) Members owning at least a Super Majority of the Units (excluding the transferring Member) consent to the admission of the transferee or assignee as a Member, and (b) the transferee or assignee executes a statement approved by the Managers (excluding the transferor if a Manager, and if there be no other Manager(s), then approved by the Members mentioned in paragraph (a) above), agreeing to be bound by the terms of this Agreement. If both such conditions are not met, the transferee or other assignee shall only be entitled to share in such Profits and Losses and to receive such distributions to which the transferring Member was entitled and shall not be entitled to any other rights or powers as a substitute Member, including, without limitation, any right to vote as a Member. If the transferee is already a Member, such transferee shall automatically become a Member with respect to the transferred Units, and hereby agrees to be bound by the terms and conditions of this Agreement. To the extent that any provisions of this Agreement confer or impose on Members an entitlement or obligation with respect to distributions or allocations of Profits or Losses, such provisions shall be deemed to refer also to any other persons who are not Members who hold Units in the Company, whether as transferees, assignees or otherwise.

### **8.14 Withdrawal**

No Member may withdraw from the Company prior to dissolution and commencement of winding up of the Company pursuant to Section 7 without the written consent of Members who together hold a Majority of Units then held by Members other than the Member proposing to withdraw.

### **8.15 Dissociation Events**

A Member shall cease to be a Member upon the occurrence of one or more of the following events:

aa. The Member withdraws by voluntary act from the Company with the written consent of Members who together hold a Majority of Units then held by Members other than the Member proposing to withdraw, as provided in Section 8.14;



bb. The Member ceases to be a Member as provided in RCW 25.15.250(2)(b) following an assignment of all such Member's Units or other interest in the Company; or

cc. Unless Members who together hold a Majority of the Units then held by Members other than such Member agree in writing that such Member's status as a Member shall not be terminated:

(i) such Member (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Member in any proceeding of the nature described in clauses (i) through (iv), above; or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of such Member or of all or any substantial part of such Member's properties;

(ii) one-hundred-twenty (120) days after the commencement of any proceeding against such Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within ninety (90) days after the appointment, without such Member's consent or acquiescence, of a trustee, receiver or liquidator of such Member or of all or any substantial part of such Member's properties, the appointment is not vacated or stayed, or within ninety (90) days after the expiration of any stay, the appointment is not vacated;

(iii) in the case of a Member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the Member incapacitated to manage his or her person or estate;

(iv) in the case of a Member that is a general partnership, a limited partnership or another limited liability company, the dissolution and commencement of winding up of such Member; or

(v) in the case of a Member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the administrative dissolution of the corporation.

**9. INTEREST OF SPOUSE**

**9.1 Interest of Spouse Subject to Agreement**

Any property interest in the Units now owned or hereafter acquired by the spouse of a Member will be subject to the terms of this Agreement and will be subject to the same restrictions on disposition described in Section 8.1 as if those interests were owned by a Member and as if that spouse were a Member; provided that any property interest of the spouse of a Member may be transferred to the Member-spouse free of any requirement of Section 8. Notwithstanding any other provision of this Agreement to the contrary, this Agreement does not

in any way provide for any right of any spouse of a Member to purchase or to elect to purchase any Units (or any property interest therein) offered under this Agreement for sale to the Company or to any other Member. Any reference to an interest that a spouse may have will not imply that a spouse has any interest in a Member's Units.

The execution of this Agreement by a spouse of any Member signifies that he or she authorizes, ratifies, confirms and approves the execution of this Agreement by the Member, with the same force and effect as if a party hereto, and he or she further authorizes and appoints as his or her attorney-in-fact said Member and surrenders to said Member all rights he or she may have with respect to the ownership, management and control of the Company and any Units, including the encumbrance and disposition of Units, the right to vote Units, and the right to participate in any modification, rescission or replacement of this Agreement.

### **9.2 Election of Member to Purchase Interest of Deceased Spouse**

Notwithstanding any other provision of this Agreement to the contrary including but not limited to Section 8.3, in the case of the death of a Member's spouse where such spouse is not a Member, the surviving Member-spouse may elect to purchase not less than all of such deceased spouse's interest (if any) in the Units. Such election must be exercised before the 61st day following the death of such non-Member spouse by notifying the deceased spouse's legal representative (if any), the Company and the other Members in writing.

### **9.3 Purchase by Company or Member of Interest of Deceased Spouse**

In the case of the death of a Member's spouse, if the deceased spouse has any interest in the Units of the Member and if the interest of the deceased spouse in the Units does not pass (i) outright and free of trusts to the surviving Member-spouse under the decedent's will, or pursuant to a revocable trust, under the applicable laws of descent and distribution, or otherwise, or (ii) to a trust primarily for the benefit of such Member-spouse for his or her lifetime ("Spousal Trust") and if the option to elect to purchase such interest described in Section 9.2 is not exercised within the period provided therein, then the Company and the Members other than the surviving Member-spouse may, at their option, elect in the manner and order of priority described in Section 8.7 to purchase not less than all of such interest from the estate or revocable trust or otherwise of the deceased spouse within the time periods specified in Section 8.7. Those time periods will be deemed to commence on the day after the date of expiration of the option to purchase provided by Section 9.2. The election will be exercised by notifying the deceased spouse's legal representative (if any), the Company or the other Members, as the case may be. If an interest of the deceased spouse in the Units does not pass to the surviving Member-spouse pursuant to the decedent's will, or revocable trust or under the applicable laws of descent and distribution, or to a Spousal Trust, and if the options to elect to purchase such interest described in Section 9.2 and in this Section 9.3 are not exercised within the periods provided therein, then any subsequent transfer of the interest by the estate of the deceased spouse, his or her revocable trust or Spousal Trust, will be subject to the terms of this Agreement and to the same restrictions on disposition described in Section 8.1 as if the interest were owned by a Member and as if the deceased spouse's estate or such trust were a Member; provided, however, that this Agreement does not in any way provide for any right of the estate of a Member's deceased spouse to purchase or to elect to purchase any Units (or any property interest therein) offered under this

#### **11.4 Headings**

The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

#### **11.5 Heirs, Successors and Assigns**

Each and all of the covenants, terms, provisions and agreements contained in this Agreement shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

#### **11.6 Notices**

Any notice, demand or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if (a) delivered personally, (b) deposited with a prepaid messenger, express or air courier or similar courier, (c) deposited in U.S. first-class certified or registered mail, postage prepaid, or (d) transmitted by telecopier or facsimile (with originals mailed the same day by U.S. mail, postage prepaid). Notice shall be deemed to have been received (i) upon receipt in the case of personal delivery, (ii) two days after being deposited in the case of messenger, express or air courier or similar courier, (iii) three business days after the date deposited in U.S. first-class certified or registered mail, and (iv) the day of receipt as evidenced by a facsimile confirmation statement in the case of transmittal by facsimile.

#### **11.7 Severability**

If any provision of this Agreement or the application of that provision to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

#### **11.8 Waivers**

The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

#### **11.9 Attorney's Fees**

In the event suit, arbitration or other proceeding is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party or parties such sum as the court or arbitrator may determine reasonable as attorneys' fees, in addition to all other sums provided by law.

**11.10 Jurisdiction and Venue**

Jurisdiction and venue with respect to any suit or other proceeding hereunder shall be in the Superior Court of Washington for King County, or the United States District Court for the Western District of Washington at Seattle, Washington.


**11.11 Exhibits**

Exhibit A is attached to and by this reference made a part of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

MEMBERS:

  
Ralph Dreitzler III

  
Fredolena Dreitzler