

# STANDARD LEGAL™

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[DISCARD ANY NOTES AND INSTRUCTION PAGES AFTER COMPLETING THIS FORM; THESE INSTRUCTIONS ARE NOT PART OF THE FORMS!]

Please note that this form is GENERAL in nature; that is it is drafted to meet the most common situations or circumstances where this form is required. This Operating Agreement is tailored to address limited liability companies where the Members will elect *MANAGERS* to manage the day-to-day operations of the business. These Managers can be, but are not required to be, Members. The decision to elect Managers in this Agreement must be consistent with the election or selection of the same on the Articles of Organization, if so selected or elected there. If any information or terms in this form do not meet the needs of the users, physically cross off or strike the language that does not apply or is not required and then have each party entering into the agreement initial the changes or deletions. If additional information or terms are required that do not appear on this form, the parties can create an "Addendum" and list the additional terms and/or language or can insert the additional terms and/or language directly on this form. In either case, any "Addendum" or additional language should be signed and/or initialed by the parties to the agreement.

This GENERAL Operating Agreement shown below provides the rules and regulations that govern the members of the LLC, the management of the LLC and the operation of the LLC business. This Operating Agreement can and should be modified to suit the needs of the particular LLC that has been formed. You should review the information provided in this software package prior to completing this form so that the correct and appropriate choices on management, membership, etc., for the LLC can be made.

## **INSTRUCTIONS FOR COMPLETING THE AGREEMENT:**

Insert the appropriate information into each of the gray boxes below. Move to the next box by hitting the "TAB" key. Instructions for each box are available in the lower left corner of your computer screen or by hitting the F1 key on your keyboard, when you are "inside" a gray box.

*Discard these instruction pages – they are NOT part of the Operating Agreement.*

[END OF INSTRUCTIONS]

**OPERATING AGREEMENT FOR  
Five Star Enterprises LLC**

This Operating Agreement ("Agreement") of Five Star Enterprises LLC, a(n) Kentucky limited liability company ("Company"), is entered and effective as of March 1, 2011 by and between Five Star Enterprises LLC and Karen Jo Littleton, the sole member ("Member").

**SECTION 1: DEFINITIONS**

For purposes of this Agreement, unless the context clearly indicates otherwise, (a) all of the capitalized words in this Agreement shall have the meanings set forth in the Appendix, and (b) all non-capitalized words defined in the Act shall have the meanings set forth therein.

**SECTION 2: FORMATION**

2.1 **Organization.** The Sole Member has authorized the formation of Five Star Enterprises LLC (herein "Company") as a(n) Kentucky Limited Liability Company pursuant to the provisions of the Act and has filed Articles of Organization with the Kentucky Secretary of State.

2.2 **Principal office.** The business office of Company at which all books and records shall be kept is located at 720 Bratton Road, Morehead, Kentucky 40351.

2.3 **Purposes.** Except as provided by the Act, Company may pursue any purpose or purposes for which individuals may lawfully associate themselves.

2.4 **Statutory Agent.** The Company's statutory agent in the State of Kentucky is Karen Jo Littleton, whose address is 720 Bratton Road, Morehead, Kentucky 40351. The statutory agent may be changed by the Member as provided by Kentucky law.

2.5 **Defects as to Formalities .** A failure to observe any formalities or requirements of this Agreement, the Articles or the Act shall not be grounds for imposing personal liability on the Member for the liabilities, debts and obligations of the Company.

2.6 **Title to Property.** Title to all property contributed to or otherwise acquired by Company shall be held in the name of Company.

2.7 **Term.** The term of the Company shall Perpetual unless it is dissolved pursuant to the provisions of Section 12.

**SECTION 3: ACCOUNTING AND RECORDS**

3.1 **Name and Address of Member.** The Member's name is Karen Jo Littleton and the Member's address is 720 Bratton Road, Morehead, Kentucky 40351.

3.2. Contribution. The Member shall make the contribution described on Exhibit A having the value therein specified. No interest shall accrue on any contribution. The Member shall not have the right to withdraw or be repaid any contribution except as provided in this Agreement. The Member may, at the Member's sole discretion, make additional contributions, but, notwithstanding anything to the contrary in this Agreement, the Member shall have no obligation to do so.

3.3 Records to be Maintained. Company shall maintain the following records at its principal office:

- (a) A current list of the full name and last known business address of the Sole Member;
- (b) Copies of the Articles, all amendments thereto and executed copies of any powers of attorney pursuant to which the Articles or the amendments have been executed;
- (c) Copies of this Agreement, all amendments hereto and executed copies of any powers of attorney pursuant to which this Agreement and such amendments have been executed;
- (d) Copies of Company's federal, state and local income tax returns and reports, for the three (3) most recent years;
- (e) Copies of any financial statements of Company for the three (3) most recent years;
- (f) Any other agreements or documents required by the Act or this Agreement.

3.4 Accounts. Company shall maintain at its principal office appropriate books and records, kept in accordance with generally accepted accounting principles and a record of the Capital Account for the Sole Member in accordance with this Agreement. The Sole Member shall have the right to inspect and copy any books and records of Company during normal business hours.

#### **SECTION 4: MANAGEMENT**

4.1 Management and Authority. The Company shall be managed by the sole Member, who may act on behalf of the Company with or without a meeting and regardless of any financial interest the Member may have in such action. The Sole Member shall have the authority to do any of the following on behalf of Company:

- (a) Make, execute or deliver any general assignments for the benefit of creditors;

- (b) Dispose of the good will of Company;
- (c) Do any act which would make it impossible to carry on the business of Company;
- (d) Confess a judgment against Company;
- (e) Submit a claim or liability of Company for arbitration or reference;
- (f) Act on behalf of the Company with or without a meeting and regardless of any financial interest the Member may have in such action and all decisions concerning the business affairs of the Company shall be made by the Member.

Subject to the Act, the Articles and this Agreement, the Member shall have authority to do every act consistent with the law. Actions by the Member shall bind the Company if such action is apparently carrying on in the usual way the business or affairs of the Company. The Member shall have all powers and duties as provided for by Kentucky law. No person shall have any duty or obligation to inquire into the authority or power of the Member regarding the Member's actions on behalf of the Company. The failure of the Company to observe any formalities or requirements relating to the exercise of its powers or the management of its business or affairs under this Agreement or the Act shall not be grounds for imposing liability on the Member for liabilities, debts and obligations of the Company solely for being the sole Member of the Company.

## **SECTION 5: SOLE MEMBER**

5.1 Member Liability and Indemnification. Except as otherwise provided by law, the Articles or this Agreement, the Member shall have no personal liability, solely as a member, for any liabilities, obligations or losses of the Company beyond the Member's contributions. The Company shall indemnify the Member for all costs, expenses, losses, liabilities, obligations and damages paid or accrued by such Member in connection with the business of the Company, or because the Member is a member. Company may advance expenses incurred by the Member in connection with the business of the Company, or in any legal action arising from action taken by the Member in connection with the business of the Company, all to the fullest extent provided or allowed by the laws of Kentucky. The Company may, in its sole discretion, also indemnify any or all employees or agents of the Company for all costs, losses, liabilities and damages paid or accrued by the agent or employee in connection with the business of the Company to the fullest extent provided or allowed by the laws of Kentucky.

5.2 Compensation. The Member shall be reimbursed for all reasonable expenses incurred on behalf of the Company and shall be entitled to reasonable compensation for time spent managing the Company, in an amount to be determined from time to time by the Member.

5.3 Representations and Warranties. The Sole Member hereby represents and warrants that (a) the Sole Member is acquiring the Units for the Sole Member's own account as an investment and without an intent to distribute the Units, and (b) the Sole Member acknowledges that the Units have not been registered under the Securities Act of 1933, as amended, or any state securities laws, and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

5.4 Conflicts of Interest.

- (a) The Sole Member shall be entitled to enter into transactions that may be considered to be competitive with the business of Company. Neither Company nor the Sole Member shall have any right by virtue of this Agreement to share or participate in such other transactions.
- (b) No transaction with Company shall be void or voidable solely because the Sole Member has a direct or indirect interest therein.

5.5 Meetings of Sole Member. The Sole Member shall meet annually on the first Monday of March or at such other time as shall be determined by resolution of the Sole Member, commencing with the year 2011, for the purpose of transacting such business as may come before the meeting; provided, however, the failure to hold an annual meeting shall not be grounds for dissolution of Company. A special meeting can be called for any purpose by the Sole Member. The Sole Member may designate any place, either within or outside the State of Kentucky, as the place of any meeting. If no designation is made, the place of meeting shall be the principal office of Company.

5.6 Quorum. The Sole Member shall constitute a quorum at any meeting of the Sole Member.

5.7 Voting. The Sole Member shall have one (1) Vote for each Unit owned by him with respect to all matters relating to the affairs of Company.

5.8 Action by the Sole Member Without a Meeting. Any action required or permitted to be taken at a meeting of the Sole Member may be taken without a meeting if the action is evidenced by written consents describing the action taken, signed by the Sole Member approving such action and delivered to the Company's Secretary for filing with Company records. The written consent will be effective upon approval by the Sole Member. Any action taken hereunder is effective when the Sole Member has signed the consent, unless the consent specifies a different effective date.

## **SECTION 6: CONTRIBUTIONS AND COMMITMENTS**

6.1 Initial Capital Contributions. The Sole Member shall make an initial Capital Contribution in cash [or property having a fair market value] in the amount, and no later than the date, set forth opposite the Sole Member's name on Exhibit "A".

6.2 Additional Capital Contributions. The Sole Member shall not be obligated to make additional Capital Contributions hereunder.

## **SECTION 7: ALLOCATIONS AND DISTRIBUTIONS**

7.1 Allocation of Profits. Profits shall be allocated in proportion to Unit ownership.

7.2 Allocation of Losses. Losses shall be allocated in proportion to Unit ownership.

7.3 Distributions. Distributions may be declared from time to time by the Sole Member. Distributions in anticipation of a Dissolution Event or subsequent to a Dissolution Event shall be made as provided in Section 12. All other Distributions shall be allocated in proportion to Unit ownership.

## **SECTION 8: TAXES**

8.1 Tax Matters Officer. Karen Jo Littleton shall be designated as the “tax matters officer” of Company pursuant to Section 6231(a)(7) of the Code.

8.2 Elections. The Member may make any tax elections for the Company allowed under the Internal Revenue Code of 1986, as amended from time to time ("Code"), or the tax laws of any state or other jurisdiction having taxing jurisdiction over the Company. It is the intent of the Member and the Company that the Company is to be disregarded as an entity separate from the Member for purposes of the Code.

8.3 Taxes of Taxing Jurisdictions. To the extent that the laws of any taxing jurisdiction require, the Member will prepare, execute and submit an agreement indicating that the Member will make timely income tax payments to the taxing jurisdiction and that the Member accepts personal jurisdiction of the taxing jurisdiction with regard to the collection of income taxes attributable to the Member income, and interest and penalties assessed on such income, if such agreement is required by the taxing jurisdiction. If the Member fails to provide such agreement, the Company may withhold and pay over to such taxing jurisdiction the amount of tax, penalty and interest determined under the laws of the taxing jurisdiction with respect to such income. Any such payments with respect to the income of the Member shall be treated as a distribution for purposes of this Agreement.

## **SECTION 9: TRANSFER OF UNITS**

9.1 Transfer. The Sole Member may sell or transfer any of its Units.

9.2 Requirements for Effectiveness of Transfer. As a condition to recognizing the effectiveness of any Transfer of Units, the Sole Member may require the proposed transferee to execute instruments of transfer, assignment and assumption and other documents and to perform all other acts which the Sole Member may deem necessary or desirable to:

- (a) Constitute such transferee as a Substitute Member;
- (b) Confirm that the Person acquiring Units or being admitted as a Member has agreed to be subject to and bound by this Agreement, as it may be further amended;
- (c) Preserve Company's status under the laws of each jurisdiction in which Company is qualified, organized or does business after the Transfer;
- (d) Maintain Company's classification as a limited liability company for federal income tax purposes; and
- (e) Assure compliance with any applicable state and federal laws including securities laws and regulations.

9.3 Admission of a Transferee as a Member. A transferee of Units shall be admitted as a Member with respect thereto if the transferee complies with Section 9.2.

#### **SECTION 10: ADDITIONAL MEMBERS**

In the event it is contemplated that there will be more than one Member, this Agreement will be amended to represent the rights of the Members. The Member may, in the Member sole discretion, determine the capital contributions of such additional members.

#### **SECTION 11: RESERVED**

#### **SECTION 12: DISSOLUTION AND WINDING UP**

12.1 Dissolution. Company shall be dissolved and its affairs wound up, upon the first to occur, of the following events:

- (a) The Dissociation of the Sole Member, other than a Dissociation due to death of the Sole Member;
- (b) Upon entry of a decree of judicial dissolution.

Upon the occurrence of any Event of Dissolution, a certificate of dissolution containing the information required by the Act shall be delivered to the Secretary of State for filing.

12.2 Winding Up. Upon dissolution, the Sole Member shall wind up all of Company's affairs and proceed to liquidate all of Company's assets as promptly as is consistent with obtaining their fair value. Company's property and cash shall be distributed:

- (a) To creditors, including the Sole Member if he is a creditor, to the extent permitted by law, in satisfaction of liabilities of Company;
- (b) To the Sole Member. Liquidation proceeds shall be paid within sixty (60) days of the end of Company's taxable year or, if later, within ninety (90) days after the date of liquidation. Such Distributions shall be in cash or property (which need not be distributed proportionately) or partly in both, as determined by the Sole Member.

The winding up of Company shall be completed when all debts, liabilities, and obligations of Company have been paid and discharged or reasonably adequate provision therefore has been made, and all of the remaining property and assets of Company have been distributed to the Sole Member.

### **SECTION 13: MISCELLANEOUS PROVISIONS**

13.1 Entire Agreement. This Agreement and the Articles represent the entire agreement of the Sole Member.

13.2 Amendment or Modification of this Agreement. This Agreement may be amended or modified from time to time only by a written instrument approved by the Sole Member.

13.3 Rights of Creditors and Third Parties under this Agreement. This Agreement is entered into by the Sole Member for the exclusive benefit of Company, the Sole Member and his successors and assigns. This Agreement is expressly not intended for the benefit of any creditor of Company or any other Person. Except and only to the extent provided by applicable statute, no creditor or third party shall have any rights under this Agreement or any agreement between Company and the Sole Member with respect to any Capital Contribution or otherwise.

13.4 Notice. All notices required or permitted by this Agreement shall be in writing. Notice to Company shall be given to the Registered Agent. Notice to the Sole Member shall be given or personally delivered to the Sole Member at the address on Exhibit "A" as amended from time to time unless the Sole Member or assignee has notified Company in writing of a different address.

13.5 Severability. Every provision of this Agreement is intended to be severable. If any term or provision of this Agreement is illegal or invalid for any reason, the illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement.

13.6 Number and Gender. All provisions and references to gender shall be deemed to refer to masculine, feminine or neuter, singular or plural, as the identity of the person or persons may require.

13.7 Binding Effect. Except as otherwise provided in this Agreement, every covenant, term and provision of this Agreement shall be binding upon and inure to the benefit of the Sole Member and him respective heirs, legatees, legal representatives, successors and assigns.



13.8 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all such parties executed the same document. All such counterparts shall constitute one agreement.

13.9 Controlling Law. The laws of the State of Kentucky, including the Act, shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

SOLE MEMBER SIGNATURE

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Karen Jo Littleton

**EXHIBIT A**

<u>Member</u>	<u>Initial Capital Contribution and Value</u>	<u>Number of Units of Interest</u>
Karen Jo Littleton	\$1700.00	100

## APPENDIX

“Act” means the laws of the State of Kentucky pertaining to the formation, organization and operation of a limited liability company, as amended from time to time.

“Agent” shall mean the agent designated by Company from time to time for service of process pursuant to the laws of the State of Kentucky.

“Agreement” means this Operating Agreement as amended from time to time.

“Articles” means the Articles of Organization of Company as properly adopted and amended from time to time by the Members and filed with the Kentucky Secretary of State pursuant to the Act.

“Capital Account” means the amount of cash and fair market value of services or property (net of any liabilities secured by contributed property that Company is considered to assume or take subject to under Section 752 of the Code) that a Member or assignee has contributed to Company as Capital Contributions pursuant to Section 6 hereof, adjusted as follows:

- (a) The Capital Account shall be increased by all Profits allocated to such Person pursuant to Section 7 hereof.
- (b) The Capital Account shall be decreased by (i) the amount of cash and the fair market value of all property distributed to such Person by Company (net of liabilities securing such distributed property that such Person is considered to assume or take subject to under Section 752 of the Code) and (ii) all Losses allocated to such Person pursuant to Section 7 hereof.
- (c) The Capital Account shall be credited in the case of an increase or debited in the case of a decrease to reflect such Person’s allocable share of any adjustment to the adjusted basis of Company assets pursuant to Section 734 (b) of the Code to the extent provided by Section 1.704-1(b)(2)(iv)(m) of the Regulations.
- (d) The Capital Account shall be adjusted in any other manner required by Section 1.704-1(b)(2)(iv) of the Regulations or otherwise, in order to be deemed properly maintained for federal income tax purposes.
- (e) Capital Accounts shall not bear interest.
- (f) The transferee of Units shall succeed to the Capital Account attributable to the Units transferred.

“Capital Contribution” means any contribution of cash, property or services to Company made by or on behalf of a Member or assignee pursuant to Section 6 hereof.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Company” means the limited liability company organized pursuant to the Articles and this Agreement and any successor limited liability company.

“Distribution” means a transfer of cash or property to a Member or assignee on account of Units.

“Dissociation” means any action which causes a Person to cease being a Member.

“Dissolution Event” means an event, the occurrence of which will result in the dissolution of Company.

“Fiscal Year” means the taxable year of Company.

“Member” means any Person who has signed this Agreement as a Member or who is hereafter admitted as a Member of Company pursuant to this Agreement.

“Person” means a natural person, trust, estate, partnership, limited liability company or any incorporated or unincorporated organization, association or entity.

“Profits” and “Losses” for any Fiscal Year means the net income or net loss of Company for such Fiscal Year or fraction thereof, as determined.

“Regulations”, except where the context indicates otherwise, means the permanent, temporary, proposed or proposed and temporary regulations of Department of the Treasury under the Code as such regulations may be changed from time to time.

“Transfer” means any transference of Units, sale, gift, assignment, pledge, granting of a security interest or other disposition, including any disposition by operation of law.

“Unit” means a fractional share of the membership interest of a Member or an assignee in Company, the numerator of which is one (1) and the denominator of which is the total number of Units outstanding from time to time. As of the date of this Agreement, Company has 100 Units outstanding. The number of Units initially issued to each Member in exchange for their Initial Capital Contribution is set forth on Exhibit “A” which shall be amended in the event that Company issues additional Units or acquires any outstanding Units.

“Vote” means each Member’s voting rights as provided for in Section 5.7 of this Agreement.