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STATE OF INDIANA
LAKE COUNTY
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MICHAEL A. BROWN
RECORDER

Operating Agreement

of

MELLOW BREW CHEESECAKE HOUSE



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Limited Liability Company Operating Agreement for
MELLOW BREW CHEESECAKE HOUSE

This limited liability company operation agreement ("the Agreement") is made and entered into as of the 16 day of JUNE, 2008 by and among:

TIMOTHY J. HEWDRICKSON

and each individual or business entity as shall be subsequently admitted to the Company. These individuals and/or business entities shall be known as and referred to as "Members" and individually as a "Member." WHEREAS, the parties have formed a Limited Liability Company named above through their initial registered agent pursuant to the laws of the State of . NOW, in consideration of the conditions and mutual covenants contained herein, and for good and valuable consideration, the parties agree upon the following terms and conditions:

Article I: Company Formation

1. The members hereby form and organize the company as a Limited Liability Company subject to the provisions of the Limited Liability Company Act in effect as of this date. Articles of Organization shall be filed with the Secretary of State.
2. The members agree to execute this Operating Agreement and hereby acknowledge for good and valuable consideration receipt thereof. It is the intention of the members that this Operating Agreement shall be the sole source of agreement of the parties.

In the event any provision of this Operating Agreement is prohibited or rendered ineffective under the laws of , this Operating Agreement shall be considered amended to conform to the Act as set forth in the Code of . The invalidity of any provision of this Operating Agreement shall not affect the subsequent validity of any other provisions of this Operating Agreement.

3. Name. The name of the company shall be . The business of the company shall be conducted under that name or such trade or fictitious names as the members may determine.
4. Date of Formation. This Operating Agreement shall become effective upon its filing with and acceptance by the appropriate state agency.
5. Registered Agent and Office. The company's initial registered agent and registered office shall be . Managing members may change the registered agent or registered office at any time, by filing the necessary documents with the appropriate state agency. Should managing members fail to act in this regard, any member may file such notice of change in registered agent or registered office.

6. Term. The company shall continue for a period of thirty (30) years from the date of formation unless:
 - a. The term is extended by amendment of the Operating Agreement. Members shall have the right to continue the business of the Company and may exercise that right by the unanimous vote of the remaining Members within ninety (90) days after the occurrence of the event described below.
 - b. The company is dissolved by a majority vote of the membership.
 - c. The death, resignation, expulsion, retirement, bankruptcy, incapacity or any other event that terminates the continued membership of a Member of the Company.
 - d. Any event which makes it unlawful for the business of the Company to be carried on by the Members.
 - e. Any other event causing the dissolution of a Limited Liability Company under the laws of the State of

Article II: Business Purpose

It is the purpose of the Company to engage in _____ The foregoing purposes and activities will be interpreted as examples only and not as limitations, and nothing therein shall be deemed as prohibiting the Company from extending its activities to any related or otherwise permissible lawful business purpose which may become necessary, profitable or desirable for the furtherance of the company objectives expressed above.

Article III: Capital Contributions

1. Initial Contributions. Each Member shall contribute to the Company capital prior to or simultaneously with, the execution of this Agreement. Each Member shall have made initial capital contributions in the following amounts:

Name of Member	Value of Capital Contribution
Timothy J. HENNINGSON	60 THOUSAND DOLLARS

No interest shall accrue on initial capital contributions.

2. Additional Capital Contributions. If management decides that additional capital contributions are necessary for operating expenses or to meet other obligations, notice must be sent to each Member setting forth each Member's share of the total contribution. Such notice must be in writing and delivered to the Member at least ten (10) business days prior to the date the contribution is due. Any such additional

capital contribution is strictly voluntary and any such commitment is to be considered a loan of capital by the Member to the Company. Such additional capital contribution does not in any way increase percentage of membership interest. This loan shall bear interest at _____ points above the current prime rate. Any loan under this subsection shall be paid in full before any distributions are made under Article IV.

3. Third Party Beneficiaries. Nothing in the foregoing sections is intended to benefit any creditor or third party to whom obligations are owed without the expressed written consent of the Company or any of its Members.
4. Capital Accounts. A capital account shall be established by the Company for each Member. The capital account shall consist of:
 - a. The amount of the Member's Capital Contributions to the Company including the fair market value of any property so contributed to the Company or distributed by the Company to the Member.
 - b. Member's share of net profits or net losses and of any separate allocations of income, gain (including unrealized gain), loss or deduction. The maintenance of capital accounts shall at all times be in accordance with the requirements of state law.
5. Additional Provisions:
 - a. Capital accounts shall be non-interest bearing accounts.
 - b. Until the dissolution of the company, no Member may receive Company property in return for Capital contributions.
 - c. The liability of any member for the losses or obligations incurred by the Company shall be limited to: Payment of capital contributions when due, pro rata share of undistributed Company assets and only to the extent required by law, any previous distributions to that Member from the Company.

Article IV: Profits, Losses, Allocations and Distributions

1. Allocations. Net profits, losses, gains, deductions and credits from operations and financing shall be distributed among the Members in proportion to their respective interest and at such time as shall be determined by the Members.
2. Distributions. Management may make distributions annually or more frequently if there is excess cash on hand after providing for appropriate expenses and liabilities. Such interim distributions are allocated to each Member according to percentage of membership interest.

Article V: Management

1. Managing Members. The names and addresses of Managing Members are:

Name	Address
Timothy J. Hewrickson	9600 HAMPTON DR APT 13 HIGHLAND IN. 46322

Managing Members shall make decisions regarding the usual affairs of the Company. A majority vote of the membership shall name as many managers as the Membership deem necessary and the membership shall elect one Chief Operating Manager who is responsible for carrying out the decisions of the managers.

2. Number of Managers. The membership may elect one, but not fewer than one, manager.

3. Term of Office. The term of office is not contractual but continues until:

- a. A fixed term of office, as designated by the membership, expires.
- b. The manager is removed with or without cause, by a majority vote of the membership.
- c. The dissociation of such manager.

4. Authority of Managers. Only managing members and authorized agents shall have the power to bind the Company. Each managing member is authorized on the Company's behalf to:

- a. Purchase, or otherwise acquire, sell, develop, pledge, convey, exchange, lease or otherwise dispose of Company assets wherever located.
- b. Initiate, prosecute and defend any proceeding on behalf of the Company.
- c. Incur and secure liabilities and obligations on behalf of the Company.
- d. Lend, invest or re-invest company assets as security for repayment. Money may be lent to members, employees and agents of the Company.
- e. Appoint officers and agents, and hire employees. It is also the province of management to define duties and establish levels of compensation. Management compensation will be determined by majority Membership vote.
- f. Execute and deliver all contracts, conveyances, assignments, leases, subleases, franchise and licensing agreements, promissory notes, loans, security agreements or any other kind relating to Company business.

- g. Establish pensions, trusts, life insurance, incentive plans or any variation thereof, for the benefit of any or all current or former employees, members and agents of the Company.
 - h. Make charitable donations in the Company's name.
 - i. Seek advice from members not part of elected management, although, such advice need not be heeded.
 - j. Supply, upon the request of any Member, information about the Company or any of its activities including but not limited to, access to company records for the purpose of inspecting and copying company books, records and materials in the possession of management. The Requesting Member shall be responsible for any expenses incurred in the exercise of these rights set forth in this document.
5. Standard of Care and Exculpation. Any member of management must refrain from engaging in grossly negligent, reckless or intentional misconduct. Any act or omission of a member of management that results in loss or damage to the company or Member, if done in good faith, shall not make the manager liable to the Members.
6. Indemnification. The Company shall indemnify its Members, Managers, employees and agents as follows:
- a. Every Manager, agent, or employee of the Company shall be indemnified by the Company against all expenses and liabilities, including counsel fees reasonably incurred by him in connection with any proceeding to which he may become involved, by reason of his being or having been a Member of the Company or having served at the request of the Company as a Manager, employee, or agent of the Company or any settlement thereof, whether or not he is a manager, employee or agent at the time such expenses are incurred, except in such cases wherein the Manager, agent or employee is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Managers approve such settlement and reimbursement as being for the best interests of the Company.
 - b. The Company shall provide to any person who is or was a Member, Manager, employee, or agent of the Company or is or was serving at the request of the Company as Manager, employee, or agent of the Company, the indemnity against expenses of suit, litigation or other proceedings which is specifically permissible under applicable law.

Article VI: Tax and Accounting Matters

- 1. Bank Accounts. Management shall establish bank accounts, deposit company funds in those accounts and make disbursements from those accounts.
- 2. Accounting Method. The cash method of accounting shall be the accounting method used to keep records of receipts and disbursements.

3. **TMP.** A Tax Matter Partner shall be designated by the management of the company as designated by the IRS Code.
4. **Years.** The fiscal and tax years of the Company shall be chosen by management.
5. **Accountant.** An independent accountant shall be selected by management.

Article VII: Member Dissociation

1. Upon the first occurrence of any of the following events, a person shall cease to be a member of the Company:
 - a. The bankruptcy of the member.
 - b. The death or court-ordered adjudication of incapacity of the member.
 - c. The withdrawal of a member with the consent of a majority vote of the remaining membership.
 - d. The dissolution and winding up of the non-corporate business member including the termination of a trust.
 - e. The filing of a Certificate of Dissolution by the corporate member.
 - f. The complete liquidation of an estate's interest in the LLC.
 - g. The expulsion of the member with the majority consent of the remaining membership.
 - h. The expiration of the term specified in Article I, section 6.
2. **Option to Purchase Interest.** In the event of dissociation of a Member, the Company shall have the right to purchase the former Member's interest at current fair market value.

Article VIII: Disposition of Membership Interests

1. **Prohibitions.**
 - a. No membership interest, be it a sale, assignment, exchange, transfer, mortgage, pledge or grant, shall be disposed of if the disposition would result in the dissolution of the Company without full compliance with all appropriate state and federal laws.
 - b. No member may in any way alienate all or part of his membership interest in the Company be it through assignment, conveyance, encumbrance or sale, without the prior written consent of the majority of the remaining members. Such consent may be given, withheld or delayed as the remaining members see fit.

2. **Permissions.** A Member may assign his membership interest in the Company subject to the provisions in this article. The assignment of membership interest does not in itself entitle the assignee to participate in the management of the Company nor is the assignee entitled to become a member of the Company. The assignee is not a substitute member but only an assignee of membership interest and as such, is entitled to receive the income and distributions the assigning member would have otherwise received.
3. **Substitute Membership.** Only upon the unanimous consent of the remaining members may an assignee of membership interest become a substitute member and be entitled to all rights associated with the assignor. Upon such admission, the substitute member is subject to all restrictions and liabilities of a Member.

Article IX: Meetings

1. **VOTING.** All members shall have the right to vote on all of the following:
 - a. The dissolution of the Company.
 - b. The merger of the Company.
 - c. Any transaction involving any potential conflict of interest.
 - d. An amendment to the Articles of Organization or to the Operating Agreement.
 - e. The transfer or disposition of all Company assets outside the ordinary course of business.
2. **Required Vote.** Unless a greater vote is required by statute or the Articles of Organization, an affirmative vote of the majority of the membership shall be required.
3. **Meetings.**
 - a. The manager(s) shall hold an annual meeting at a time and place of their choosing.
 - b. Special meetings of the membership may be called at any time by the manager(s) or by at least ten (10%) of the membership interest of all members. Written notice of such meeting must be provided at least sixty (60) business days prior and not later than ten (10) days before the date of the meeting. A member may elect to participate in any meeting via telephone.
4. **Consent.** In the absence of an annual or special meeting and in the absence of a vote, any action required to be taken may be permitted with the written consent of the members having not less than the minimum number of votes required to authorize such action at a meeting.

Article X: Dissolution and Termination

In the event a dissolution event occurs the remaining membership shall have the option to elect to continue the company as defined by Article I, section 6.

1. Merger. In the event the election to continue the company following a dissolution event is not obtained, a majority vote of the remaining members may elect to reconstitute the Company through merger with and into another Limited Liability Company pursuant to applicable state law.
2. Winding Up. If the members do not elect to continue the Company or reconstitute it, the Manager or other person selected by a majority vote of the membership shall wind up the Company.
3. Final Distributions. After all Company assets have been liquidated and all Company debts have been paid, the proceeds of such liquidation shall be distributed to members in accordance with their capital account balance. Liquidation proceeds shall be paid within days of the end of the Company's taxable year or, if later, within days after the date of liquidation.
4. Dissolution. Upon completion of the winding up period, the Manager or other person selected shall file with the Secretary of State the Certificate of Dissolution or its equivalent and any other appropriate documents as required by law.

IN WITNESS WHEREOF, the parties hereto make and execute this Operating Agreement on the dates set below their names, to be effective on the date first above written.

Signed and Agreed this 16 day of JUNE, 2008.

By
Manager:

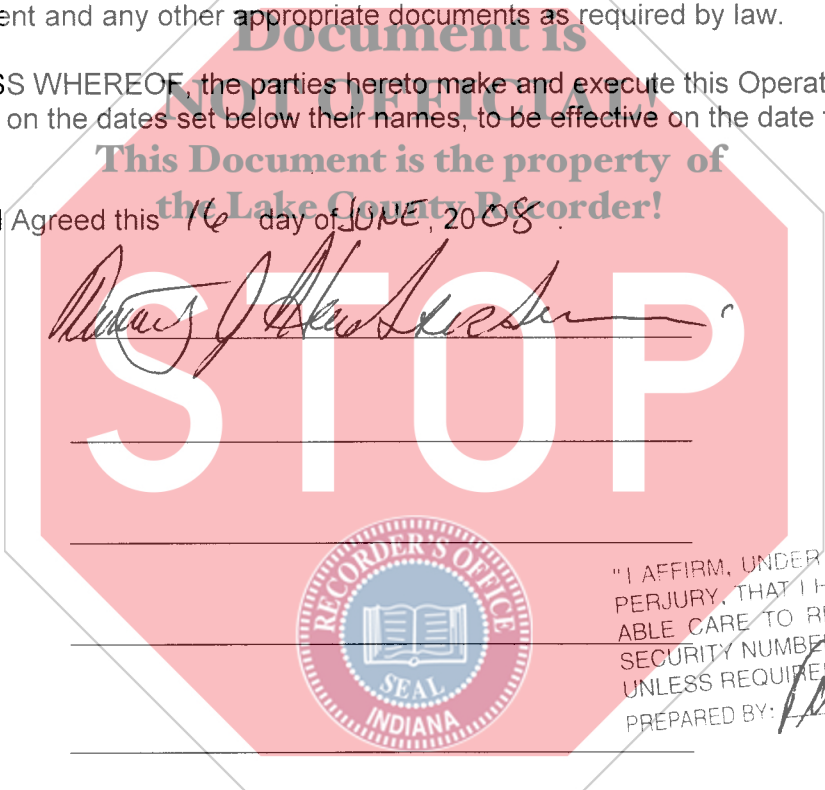
[Handwritten Signature]

Member:

Member:

Member:

Member:



"I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW."
 PREPARED BY: *[Handwritten Signature]*

[Handwritten Signature]
 BARBARA J. BORTOLI, NOTARY

