



20161013000376900 1/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT

**AMENDED CERTIFICATE OF FORMATION
FOR
KCZ, LLC
A LIMITED LIABILITY COMPANY
ORGANIZED UNDER THE LAWS OF ALABAMA**

KNOW ALL MEN BY THESE PRESENTS, That for the purpose of forming a Limited Liability Company under and pursuant to the provisions of the Alabama Limited Company Law of 2014, Section 10A-5-1.01, et seq., and any act amendatory thereof, supplemental thereto, or substituted therefore (hereinafter referred to as the "Act") the undersigned signed person or persons having associated themselves, being one or more initial member(s), together and having agreed upon and adopted this Certificate of Formation and the same constitutes and hereby becomes a charter for carrying on the business hereinafter below specified upon the proper filing upon filing for record this Certificate of Formation in the Office of the Judge of Probate of **SHELBY** County, the existence of a limited liability company for **KCZ, LLC**. (hereinafter called the "Company"), shall commence thereon.

**ARTICLE I
NAME**

The name of the Limited Liability Company is **KCZ, LLC**.

**ARTICLE II
DURATION**

The Company shall continue in existence until it is dissolved in accordance with the provisions of the operating agreement, or, if there is no operating agreement or no provision in the operating agreement governing the duration of the Company, then in accordance with the Alabama Limited Company Law of 2014, Section 10A-5-1.01, et seq., or other applicable laws but in no instance shall it exceed a period of more than thirty (30) years.

**ARTICLE III
PURPOSE**

3-1. The Company is organized for the purpose and objects and powers are as follows:

(A) To engage in any lawful business, act or activity for which a company may be organized under the Act, it being the purpose and intent of this Article III to invest the Company with the broadest purpose, objects and powers lawfully permitted a company formed under the Act.

(B) To carry on any and all aspects, ordinary or extraordinary, permitted by law, having and exercising in connection herewith all powers given to companies by the laws of the State of Alabama.

(C) Without limiting the scope and generality of the foregoing, the Company shall have the following specific purposes, objects and powers:

(1) To engage primarily in the business of Fitness Training.

(2) To have and to exercise any and all of the powers specifically granted in the Alabama Limited Company Law of 2014, Section 10A-5A-1.01, et seq., none of which shall be deemed to be inconsistent with the nature, character or object of the Company, and none of which are to be denied to it by these Certificate of Formation.

(3) To be a promoter or incorporator, to subscribe for, purchase, deal in and dispose of, any stock, bond, obligation or other security, of any person, firm, company or governmental unit, and while the owner and holder thereof to exercise all rights of possession and ownership.

(4) To purchase or otherwise acquire (including, without limitation, to purchase its own shares or membership interest to the extent of unreserved and unrestricted capital available surplus available thereof) to the fullest extent permitted by the Act, and to sell, pledge or otherwise deal in or dispose of shares of its own stock, bonds, obligations, other securities, or membership interest.

(5) To borrow money from any person, firm, company (business, public or non-profit), or governmental unit and to secure any debt by mortgage or pledge or any property of the Company; to make contracts, guarantees and indemnity agreements and incur liabilities and issue its notes if not inconsistent with the provisions of the Constitution of Alabama as the same may be amended from time to time.

(6) To lend money or aid or extend credit to, or use its credit to assist, any person firm, company (business, public or non-profit), or governmental unit, including without limitation, its employees and directors and those of any subsidiary, in accordance with the Act.

(7) To guarantee any indebtedness and other obligation of and to lend its aid and credit to, any person firm, company (business, public or non-profit), or governmental unit, and to secure the same by mortgage or pledge of, or security interest in, any property of the Company.



20161013000376900 2/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT

(8) To consolidate, merge or otherwise reorganize in any manner permitted by law; to engage in one or more partnerships and joint ventures as general or limited partner.

(9) To carry on its business anywhere in the United States and in foreign countries.

(10) To elect or appoint officers and agents and define their duties and fix their compensation; to pay pensions and establish pension plans, pension trust, profit sharing plans and other incentive or deferred compensation plans for any or all of its Members and employees.

(11) To transact any abovementioned business as this Company might deem proper and that it directly or indirectly improve the interest of this Company. To transact any and all lawful business for which this Company may be organized under the laws of the State of Alabama and to have and to exercise all powers conferred by the laws of the Alabama Limited Company Law of 2014, Section 10A-5-1.01, et seq. And the State of Alabama on limited liability companies formed under the laws pursuant to which and under which this Company is formed, as such laws are now in effect or may at any time hereafter be amended and to do any and all things herein above set forth to the same extent and as fully as a natural person might or could do, either alone, or in connection with other persons, firms or limited liability companies, and in any part of the world. The explanation for this purpose as above stated is for explanation and not as a limitation. In addition to the purpose aforesaid, the Company shall have the power to conduct and carry on any business or activity not prohibited by law, nor required by law to be specifically stated in these articles.

ARTICLE IV REGISTERED AGENT/OFFICE

The location mailing address of the initial registered office of the Company is 100 Hagan Avenue Childersburg, Alabama 35044 and the name of the initial registered agent of the Company at such address is Scott K. Moncrief, whose address is 1709 King Charles Court, Alabaster, AL 35007.

ARTICLE V INITIAL MEMBERS

The name and address of the initial member of the Company is:

Scott K. Moncrief, whose address is 1709 King Charles Court, Alabaster, AL 35007.
Scott K. Moncrief shall own a 100% interest as a member of this LLC.



20161013000376900 3/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT

**ARTICLE VI
ADMISSION OF ADDITIONAL MEMBERS**

From and after the date of the formation of the Company, any person or entity acceptable to the Members by their unanimous vote thereof may become a Member in this Company either by the issuance by the Company of membership interest for such consideration as the Members by their unanimous votes shall determine, or as a transferee of a Member's membership interest or any portion thereof as approved by the Members by their unanimous vote, subject to the terms and conditions of these Articles of Organization and the Operating Agreement.

**ARTICLE VII
DISSOCIATION, DISSOLUTION AND TERMINATION**

7.1 A person shall cease to be a Member of the Company upon the occurrence of any event specified in ALA. CODE § 10A-5-7.01 et al, (a "dissociation Event").

7.2 The Company shall be dissolved upon the occurrence of any of the following events:


(i) When the period fixed for the duration of the Company shall expire pursuant to Section 2 hereof;

(ii) By the unanimous written agreement of all Members; or

(iii) Upon the occurrence of the Dissociation Event, unless the business of the Company is continued by the unanimous consent of the Members remaining immediately after the Dissociation Event (the "Remaining Members") and the economic interest owners remaining immediately after the Dissociation Event within (90) days after the Dissociation Event.

**ARTICLE VIII
MANAGEMENT**

The company shall be managed by the Member(s).


20161013000376900 4/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT

**ARTICLE IX
INTERNAL AFFAIRS**

9.1 The provisions of Section 9.2 to 9.5 for the regulation of the business and for the conduct of the affairs of the Company and its Members are hereby adopted.


9.2 The initial Operating Agreement of the Company shall be adopted by the initial

Members. The power to alter, amend, or repeal the Operating Agreement or adopt new Operating Agreement shall be vested in the Members, which power may be exercised in the manner and to the extent provided in the Operating Agreement. The Operating Agreement may contain any provisions for the regulation of the business and for the conduct of the affairs of the Company, not inconsistent with the Act or these Articles of organization.

9.3 Any contract or other transaction which is fair and reasonable to the Company between the Company and one or more of its Members, or between the Company and any firm of which one or more of its members are shareholders, members, directors, officers, or employees, or in which they are financially interested, shall be valid for all purposes, notwithstanding the presence of the person at the meeting of the Members of the Company or any committee thereof that acts upon, or in reference to, the contract or transaction if either (a) the fact of such interest shall be disclosed or known to the Members or such committee, as the case may be, and the members or such committee shall, nevertheless, authorize or ratify the contract or transaction or (b) the fact of such relationship or interest is disclosed to the Members entitled to vote, and they authorize, approve or ratify such contract or transaction by vote or written consent. The interested Members shall not be counted in determining whether a quorum is present and shall not be entitled to vote on such authorization or ratification. This section shall not be construed to invalidate any contract or other transaction that would otherwise be valid under the common and statutory law applicable to it. Each and every person who may become a Member of the Company is hereby relieved from any liability that might otherwise arise by reason of his or her contracting with the Company for the benefit of himself or any firm or company in which he or she may be in any way interested.

9.4 The Company reserves the right from time to time to amend, alter or repeal each and every provision contained in this Certificate of Formation, or to add one or more additional provisions, in the manner now or hereafter prescribed or permitted by the Act, and all rights conferred upon Members at any time are granted subject to this reservation.

ARTICLE X INDEMNIFICATION


20161013000376900 5/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT

10.1 In amplification, and not in limitation, of applicable provisions of the Certificate of Formation and other provisions of Alabama law:

(a) The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Company), by reason of the fact that he or she is or was a member, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, employee or agent of another

company, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgements, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such claim, action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any claim, action, suit or proceeding by judgement, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Company, and with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any claim, action, suit or proceeding by judgement, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

(b) The Company shall indemnify any person who was or is a party or is threatened to be made a party of any threatened, pending or completed claim, action or suit by or in the right of the Company to produce a judgement in its favor by reason of the fact that he or she is or was a member, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, member, employee or agent of another company, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Company, and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Company unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnify for such expenses which such court shall deem proper.

10.2 To the extent that a member, officer, employee or agent of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith, notwithstanding that he or she has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

10.3 Any indemnification under Section 10.1 (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the member, officer, employee or agent is proper in the circumstances

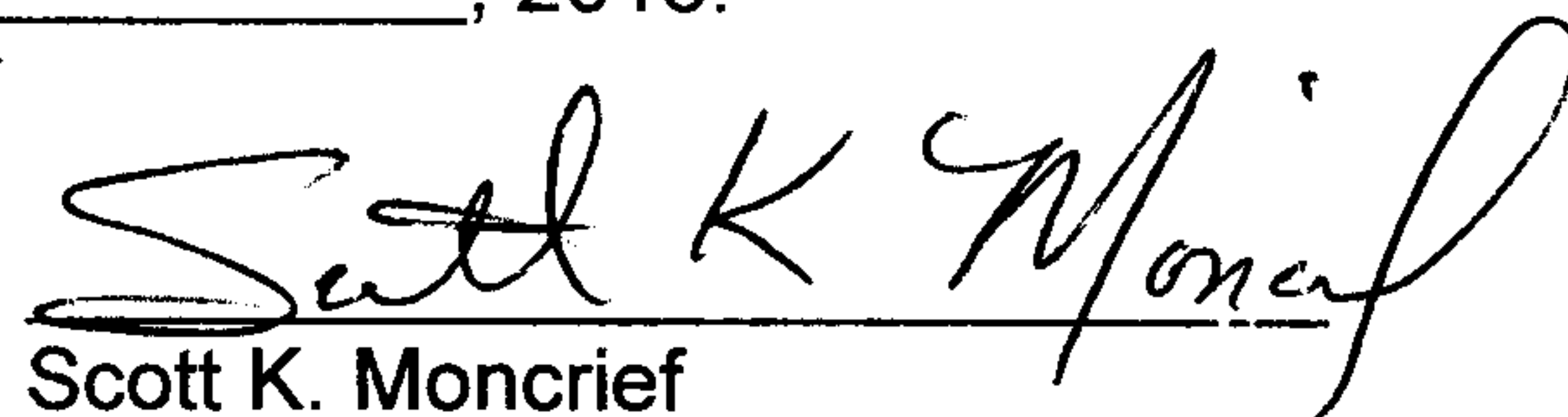
because he or she has met the applicable standard of conduct set forth in Section 10.1. Such determination shall be made (i) by the Members by a majority vote of a quorum consisting of members who were not parties to, or who have been wholly successful on, the merits or otherwise with respect to such claim, action, suit or proceeding, or (ii) if such a quorum is not obtainable, or even if obtainable a quorum of disinterested Members so directs, by independent legal counsel in a written opinion, or (iii) by the Members.

10.4 Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Company in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in Section 10.3 upon receipt of an undertaking by or on behalf of the member, officer, employee or agent to repay such amount if, and to the extent that, it shall ultimately be determined that he or she is not entitled to be indemnified by the Company as authorized in this Article.

10.5 The indemnification authorized by this Certificate of Formation, shall not be deemed exclusive of, and shall be in addition to, any other rights to which those indemnified may be entitled under any statute, rule of law, provision of articles of organization, operating agreement, other agreement, vote of members or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a manager, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

10.6 The Company shall have power to purchase and maintain insurance on behalf of any person who is or was a manager, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, partner, member, employee or agent of another company, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Company would have the power to indemnify him or her against such liability under the provisions of this Article X.

IN TESTIMONY WHEREOF, witness the hand and seal of the undersigned members on this the 21st day of July, 2016.


Scott K. Moncrief



20161013000376900 7/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT

STATE OF ALABAMA
Talladega COUNTY

I, the undersigned authority, a Notary Public for said County and State, hereby certify that Scott K. Moncrief, whose name as Initial Member(s) of **KCZ, LLC**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he, as such Member and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand this the 21st day of July, 2016.

Jackie McElberry
NOTARY PUBLIC
My commission expires: 10/13/2019

This instrument prepared by:
Gregory S. Graham, P.C.
803 3rd Street SW
P.O. Drawer 307
Childersburg, Alabama 35044



20161013000376900 8/8 \$84.00
Shelby Cnty Judge of Probate, AL
10/13/2016 03:42:48 PM FILED/CERT