



FARM JOURNAL
Legacy Project

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Cultivating Multigenerational Success
in the Agricultural Community

Operating Agreement Design Tool

This worksheet is designed to help you, the owners and future owners of the operation discuss the common, and sometimes contentious, issues included in an operating agreement. Each question should prompt a discussion and encourage a decision. This tool is not intended to be comprehensive, or to take the place of qualified legal assistance. The completed worksheet should be shared with an attorney who will help you weigh the pros and cons of particular points and draft an operating agreement into a legal and binding document.

Entity – Operation/Company – Information: Name, address, and purpose.

Members Information: Names, contact information, and respective membership (ownership) class.

Membership Classes: The variety of membership (ownership) classes, the duties and rights of each class, and the voting power of each respective class. *Note: At least one member class must have voting rights.*

Capital Contributions: A description of all capital contributions made by each respective member.

Allocations/Distributions: Will a respective member's share of profits & losses be based on a fixed amount, or on a percentage equal to contributions?

When should distributions be made?

Should members be compensated for services?

Note: The sum of distributions should equal 100%, or include a provision to satisfy a respective member's income tax obligation for earnings retained by the operation.

Transfer and Assignment of Interests/New Members: Can new members be admitted?

If so, what are the voting requirements and conditions to admit a new member?

Dissolution, Disassociation or Withdrawal of a Member: Can a member voluntarily withdraw from the Company?

Will the withdrawal or disassociation of a member automatically dissolve the company?

Can a member sell an interest in the company to a third party and/or other existing members?

Non-Compete: Provisions should be included that prohibit a member from competing against the company, operation, or entity for a set period of time after withdrawing or disassociation.

Member Meetings: When, where, and under what conditions will member meetings be held?

How much, and what manner of, notice is required to schedule a non-regular meeting?

Voting/Decision-making: Should voting power be based on contributions, or an equal vote for each member?

What decisions are made by a majority, and what decisions, if any, are made by super majority?

What percentage of ownership constitutes a super majority?

Note: Unanimous decisions are not recommended.

Management Information: How will the company be managed? By member(s) or by manager(s)

What are the duties and responsibilities of manager(s)? And, what are the limitations on the powers of manager(s)?

Under what circumstances can members remove a manager? And, under what circumstances can a manager voluntarily withdraw?

What is required for the addition of a new manager?

How may a manager be compensated?

Accounting and Annual Reports: Accounting will be on a cash or accrual method?

When does the company's fiscal year end?

Annual reports should include federal and state income tax reports, income statements, balance sheet, statement of cash flow, and profit and loss.

Who, how, and when may a member review the books and audit the accounting results?

Contractual Authority: Who has the authority to bind the operation, company, or entity to contracts?

Under what conditions and limits may a member and/or manager bind the company to contracts?

Amendments to the Operating Agreement: Under what conditions can this operating agreement be amended?

Miscellaneous: Will unresolved disputes between members be referred to Mediation, and then to arbitration?

What additional clauses, conditions, or terms should be included that are not already addressed above?

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