

Checklist of Terms and Conditions of LLC Operating Agreement

Following is a checklist of possible terms and conditions to incorporate into the more definitive operating agreement that will replace the stop-gap agreement:

I. MANAGEMENT

- A. By Members
- B. By Manager
 - 1. Number of Managers
 - 2. Method of Management
 - 3. Qualifications
 - 4. Election
 - 5. Vacancies
 - 6. Removal
 - 7. Resignation
- C. Officers
- D. Compensation

II. MEMBERS' RIGHTS

- A. Rights That Cannot Be Modified
- B. Amendment of Articles or Operating Agreement
- C. Transfers of Membership Interests
- D. Other Rights
- E. Expulsion of Member
- F. Method of Determining Voting Approval

III. LIABILITY

- A. Liability to Third Parties
 - 1. Members
 - a. General Rule
 - b. Alter-Ego Doctrine
 - c. Forced Contributions
 - d. Return of Improper Distributions
 - e. After Dissolution
 - 2. Managers and Officers
- B. Liability to Members and Company
 - 1. Fiduciary Duties of Manager are Same as Those of Partner
 - 2. Fiduciary Duties of Members Who are Not Managers
 - 3. Liability for Authorizing Improper Distributions
- C. Indemnification
- D. Insurance

IV. CAPITAL STRUCTURE

- A. Number and Type of Member Classes
- B. Admission of New Members

V. FINANCE

- A. Initial Capital Contributions
- B. Additional Funding
 - 1. No Provision for Members to Make Additional Contributions
 - 2. Additional Capital Contributions Required

- 3. Borrowing Options
- C. Failure to Make Required Contributions
 - 1. Collection Action
 - 2. Additional Remedies Permitted by the Beverly-Killea Limited Liability Company Act
 - 3. Reasonableness of Remedies

VI. DISTRIBUTIONS

- A. Constraints on LLC's Ability to Make Distributions
- B. Liability for Authorizing and Receiving Improper Distributions
 - 1. Voting for Improper Distributions
 - 2. Receipt of Improper Distributions
- C. Types of Distributions
- D. Distributions in Kind
- E. Method of Determining Distributions

VII. WITHDRAWAL OF MEMBERSHIP

- A. Withdrawal
- B. Status Following Withdrawal

VIII. TRANSFER OF MEMBERSHIP INTERESTS

- A. Restrictions on Transfer
 - 1. Statutory
 - 2. Contractual
- B. Effects of Transfer
- C. Noncompetition