One possible framework for an LLC operating agreement is provided below, including some sample language for standard clauses and annotations in brackets suggesting issues you may wish to address in the agreement and specific terms you may wish to include. The particular requirements of any LLC operating agreement depend highly on the state of incorporation and the intentions and goals of the members. The content below is for illustration only, is not legal advice and should not be relied upon in place of the advice of a qualified legal professional.

OPERATING AGREEMENT

OF

[\_\_\_\_\_\_\_\_\_\_\_\_\_\_] LLC

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OPERATING AGREEMENT

OF

[[STATE]] LLC

**THIS OPERATING AGREEMENT** (the “Agreement”) is made as of the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the undersigned (collectively, the “Members”).

RECITALS:

A. The parties hereto hereby form [[STATE]] LLC (the “Company”) as a limited liability company pursuant to the [APPLICABLE STATE LAW] (the “Act” as hereinafter defined).

B. The parties hereto desire to enter into this Agreement in order to govern the affairs of the Company and set forth their rights, obligations and understandings with respect to the Company.

**NOW, THEREFORE,** in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

ARTICLE I - FORMATION

1.01 **Formation.** The Members hereby form the Company as a limited liability company under the provisions of the Act. The Members shall take all action required by law to perfect and maintain the Company as a limited liability company under the Act and under the laws of all other jurisdictions in which the Company may elect to conduct business.

1.02 **Name.** The name of the Company shall be [[\_\_\_\_\_\_\_\_\_\_\_]] LLC.

1.03 **Place of Business; Registered Office; Registered Agent.** The registered office and principal office of the Company shall be located at [[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]]. The registered agent for service of process of the Company at such address shall be [[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]]. The principal office of the Company shall be located at [[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]]

1.04 **Duration.** The Company’s existence shall commence as of the date of the Division’s acceptance of the Certificate of Formation, and shall continue until dissolved in accordance with the Act and this Agreement.

ARTICLE II - INTERPRETIVE PROVISIONS

2.01 **Certain Definitions.** The following terms have the definitions hereinafter indicated whenever used in this Agreement with initial capital letters:

[LIST AND DEFINE TERMS AS NECESSARY]

ARTICLE III - BUSINESS PURPOSE

3.01 **Business.**

(A) The business of the Company shall be to carry on any and all activities as may be lawfully conducted by a limited liability company under the laws of the [STATE].

3.02 **Authorized Activities.** In carrying out the purposes of the Company, but subject to all other provisions of this Agreement, the Company is authorized to:

1. [LIST SPECIFIC BUSINESS ACTIVITIES AS NECESSARY OR RELY ON CATCHALL IN PART B]
2. Engage in any kind of lawful activity, and perform and carry out contracts of any kind, necessary or advisable in connection with the accomplishment of the purposes of the Company.

3.03 [SET FORTH PRIMARY PURPOSE OF BUSINESS, I.E. EQUIPMENT SHARING, AND STATE MEMBER INTENT TO BE BOUND BY THE EQUIPMENT USE AGREEMENT INCLUDED AS AN ATTACHMENT. SET FORTH ALL OPERATING RULES APPLICABLE TO USE, MAINTENANCE AND SHARING OF EQUIPMENT IN THE EQUIPMENT USE AGREEMENT RATHER THAN IN THE LLC OPERATING AGREEMENT]

ARTICLE IV - MEMBERSHIP INTERESTS, CAPITAL CONTRIBUTIONS  
MEMBER LOANS AND CAPITAL ACCOUNTS

4.01 **Members.** The Members, their addresses, Capital Contributions, and Percentages of Membership Interest are set forth on Exhibit “A” attached hereto. Except as set forth on Exhibit “A” or in this Article IV, or as may otherwise be required by law, no Member shall have any obligation to make any additional Capital Contributions to the Company.

4.02 **Loans and Advances.**

[SET FORTH RULES WITH REGARD TO COMPANY AUTHORITY TO BORROW FUNDS WITH PERMISSION OF REQUISITE PERCENTAGE OF MEMBERSHIP INTERESTS, INCLUDING FROM MEMBERS, AND LIMITATIONS ON SUCH BORROWING (INTEREST RATE, IMPACT OF CAPITAL CONTRIBUTION, SOURCE OF FUNDS FOR REPAYMENT)]

4.03 **Additional Capital Contributions.**

**[**SET FORTH COMPANY’S AUTHORITY TO ISSUE CAPITAL CALLS (I.E. REQUIRE MEMBERS TO CONTRIBUTE ADDITIONAL CASH OR VALUE TO THE COMPANY), THE PROPORTION IN WHICH MEMBERS WILL BE REQUIRED TO PROVIDE CAPITAL (E.G. PROPORTIONATE TO EACH MEMBER’S PERCENTAGE MEMBERSHIP INTEREST IN THE COMPANY), THE IMPACT OF MEMBER’S FAILURE TO COMPLY WITH A CAPITAL CALL (E.G. SUSPENSION OF VOTING RIGHTS, ETC.), WHETHER LOANS FROM OUTSIDE LENDERS OR FROM MEMBERS MUST BE SOUGHT BEFORE ISSUING CAPITAL CALL, ETC.]

4.04 [SET FORTH MEMBERS RIGHT TO RETURN OF CAPITAL, TYPICALLY A STATEMENT THAT MEMBERS HAVE NO RIGHT TO DEMAND RETURN OF CAPITAL OTHER THAN AS SET FORTH IN THE AGREEMENT]

ARTICLE V - ALLOCATIONS AND DISTRIBUTIONS

5.01 **Limited Liability.** Except as expressly provided in this Agreement, no Member (in his capacity as a Member) shall be personally liable for losses, costs, expenses, liabilities or obligations of the Company in excess of such Member’s Capital Contribution required under Article IV hereof. The foregoing shall not affect any liability which a Member may incur if such Member undertakes additional obligations to the Company, to the Members or to third parties in a capacity other than as a Member. [STANDARD STATEMENT OF LIMITATION OF LIABILITY]

5.02 **Allocations of Profits and Losses.** [STATE ALLOCATION OF PROFITS AND LOSSES, UNDER ADVISEMENT OF ACCOUNTANT OR TAX ATTORNEY]

5.03 **Distributions.** [SET FORTH MEMBERS’ RIGHTS TO DISTRIBUTIONS OF CASH FROM THE COMPANY, TIMING OF DISTIBUTIONS, AMOUNTS, PRIORITY, RESTRICTIONS (FOR SAMPLE, IF DISTRIBUTION WOULD CAUSE COMPANY TO BE UNABLE TO PAY ITS DEBTS OR FALL BELOW A CERTAIN RATIO OF ASSETS TO LIABILITIES), ETC.].

ARTICLE VI - COMPANY MANAGEMENT

6.01 **Management by Members.**

(A) Subject to and limited by the provisions of this Agreement, the Members (i) shall have the authority, discretion, obligation and responsibility to manage and control the affairs of the Company to the best of their ability, (ii) shall use their reasonable best efforts to carry out the business of the Company, and (iii) shall oversee the day-to-day affairs of the Company and shall make all decisions and take all actions with respect thereto.

[THE ABOVE CLAUSE ESTABLISHES THE LLC AS MEMBER-MANAGED, WHICH, ASSUMING ALL MEMBERS ARE ACTUALLY AFFORDED AN OPPORTUNITY TO PARTICIPATE IN MANAGEMENT OF THE COMPANY, SHOULD LIMIT THE POSSIBILITY THAT INVESTMENT IN THE COMPANY WOULD BE CONSIDERED A SECURITY UNDER APPLICABLE FEDERAL OR STATE LAW]

[ADDITIONALLY SET FORTH ANY SPECIFIC ACTIONS REQUIRING MEMBER ACTION ON BEHALF OF THE COMPANY]

6.02 [SET FORTH A PROCESS FOR MANAGEMENT, I.E., MEMBER DECISION-MAKING, INCLUDING VOTE THRESHOLDS FOR PARTICULAR DECISIONS, TIME AND PLACE OF REGULAR MEETINGS, PROTOCOL AT MEETINGS, NOTICE REQUIRED, DOCUMENTATION OF MEETINGS AND VOTES, ETC.]

6.03 **Authority to Bind the Company.** Except as otherwise provided by this Agreement or by Unanimous Consent of the Members, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable financially for any purpose. No Member shall have any power or authority to bind the Company unless the Member has been authorized by Unanimous Consent of the Members to act as agent of the Company in accordance with the previous sentence. [FOR OBVIOU REASONS, IT IS STANDARD TO LIMIT MEMBERS’ AUTHORITY TO BIND THE COMPANY OR ACT ON BEHALF OF THE COMPANY OUTSIDE OF THE PROCESS FOR MANAGEMENT AS DETERMINED BY THE MEMBERS]

6.04 **Limitations on Authority.**

[SET FORTH LIMITATIONS ON MEMBER AUTHORITY TO PERFORM ANY PARTICULAR ACTIONS ON BEHALF OF COMPANY OR ON THE COMPANY’S ACTIONS THEMSELVES (E.G. WHETHER COMPANY MAY PARTICIPATE IN BUSINESS ACTIVITIES UNRELATED TO AGRICULTURE; WHETHER COMPANY MUST ABIDE BY ANY PARTICULAR LABOR, ENVIRONMENTAL OR OTHER STANDARDS NOT SPECIFICALLY REQUIRED BY LAW; WHETHER COMPANY MAY DISSOLVE BEFORE A CERTAIN DATE]

6.05 **Compensation; Reimbursement of Expenses.** [IT WOULD BE TYPICAL TO STATE MEMBERS’ RIGHT ABSENCE OF ANY RIGHT TO BE COMPENSATED BY COMPANY UNLESS BY AFFIRMATIVE CONSENT OF SOME PROPORTION OF THE MEMBERSHIP; SOME LLCS PROVIDE MEMBERS A RIGHT TO BE REIMBURSED FOR REASONABLE EXPENSES INCURRED IN RELATION TO COMPANY BUSINESS, BUT THIS MAY BE LIMITED BY REQUIRING CONSENT OF THE OTHER MEMBERS]

6.06 **Liability for Acts and Omissions.**

[A TYPICAL CLAUSE HERE WOULD SET FORTH LIMITATIONS ON MEMBER LIABILITY FOR ACTIONS TAKEN IN GOOD FAITH ON BEHALF OF THE COMPANY AND REASONABLY BELIEVED TO BE WITHIN THE AUTHORITY OF THE MEMBER TO ACT; AND SET FORTH THE COMPANY’S DUTY TO INDEMNIFY MEMBERS FOR SUCH GOOD FAITH ACTIONS BUT NOT TO INDEMNIFY FOR RESULTS RESULTING FROM FRAUD, INTENTIONAL MISCONDUCT OR BRECH OF FIDUCIARY DUTY, ETC.]

ARTICLE VII - ACCOUNTING AND REPORTS

7.01 **Books and Records**. [SET FORTH COMPANY OBLIGATION TO MAINTAIN BOOKS AND RECORDS AND MEMBERS RIGHT TO VIEW THEM WITH REASONABLE NOTICE AND AT A REASONABLE TIME AND PLACE (OR ELECTRONICALLY, AS THE CASE MAY BE)]

7.02 **Annual Audit and Tax Matters.**

[SET FORTH ANY PARTICULAR ACCOUNTING REQUIREMENTS; CONSULT ACCOUNTANT OR TAX ATTORNEY]

7.03 **Reports and Notices.**

[SET FORTH MEMBER RIGHTS TO NOTICE REGARDING CERTAIN TAX MATTERS; CONSULT ACCOUNTANT OR TAX ATTORNEY]

7.04 **Company Funds.** [SET FORTH LIMITATIONS ON MANAGEMENT OF COMPANY FUNDS, E.G. NO COMMINGLING FUNDS, SEPARATE BANK ACCOUNTS FOR PARTICULAR PURPOSES, ETC.]

ARTICLE VIII - TRANSFER OF MEMBERSHIP INTERESTS

8.01 **Restriction on Transfers by Members.**

[SET FORTH MEMBER RIGHTS TO TRANSFER THEIR INTEREST IN THE COMPANY AND ANY LIMITATIONS ON THOSE RIGHTS. TYPICAL WOULD BE TO STATE THAT MEMBERS HAVE NO RIGHT TO TRANSFER ANY PART OF THEIR MEMBERSHIP INTEREST EXCEPT AS SET FORTH IN THE OPERATING AGREEMENT OR WITH CONSENT OF SOME PERCENTAGE OF THE OTHER MEMBERSHIP INTERESTS. TYPICALLY, AN EXCEPTION WOULD BE PROVIDED PERMITTING TRANSFER OF MEMBERSHIP INTEREST TO CERTAIN FAMILY MEMBERS DURING LIFETIME OR UPON DEATH]

8.02 **Right of First Refusal.**

[SET FORTH RIGHTS OF THE COMPANY AND/OR MEMBERS TO PURCHASE THE MEMBERSHIP INTEREST OF A MEMBER SEEKING TO SELL THAT INTEREST BEFORE SAID SELLING MEMBER MAY SELL TO OUTSIDE PARTY; E.G., THE MANNER IN WHICH THE SELLING MEMBER MUST PROVIDE NOTICE AND OPPORTUNITY TO THE COMPANY OR OTHER MEMBERS TO PURCHASE HIS OR HER INTEREST, HOW AND BY WHEN THE COMPANY OR OTHER MEMBERS MUST RESPOND, AND HOW AND WHEN PAYMENT IS TO BE MADE]

8.03 [SET FORTH ANY REQUIREMENTS APPLICABLE TO ANY CONTRACT BETWEEN A SELLING MEMBER AN AN OUTSIDE PARTY FOR THE PURCHASE OF THE SELLING MEMBER’S INTEREST IN THE COMPANY, E.G. REQUIREMENT THAT THE OUTSIDE PARTY CONSENT TO BE BOUND BY THE COMPANY OPERATING AGREEMENT AND THE RIGHTS AND RESPONSIBILITIES CONTAINED THEREIN ]

8.04 **Resignation of Member.** [SET FORTH THE RIGHT OF A MEMBER TO WITHDRAW FROM THE COMPANY, INCLUDING REQUIREMENTS FOR PROVIDING NOTICE TO THE COMPANY AND WHEN THE RESIGNATION WILL TAKE EFFECT; ANY RIGHT OF THE RESIGNING MEMBER TO RECEIVE VALUE FOR THE HIS OR HER RELINQUISHED MEMBERSHIP INTEREST, THE TIMING FOR PAYMENT OF THAT VALUE, ETC.]

ARTICLE IX - OPTIONAL BUY-OUT UPON DISPUTE

[SET FORTH THE PROCESS FOR NAVIGATING ANY DISAGREEMENT OR STALEMATE BETWEEN THE MEMBERS CAUSING THE COMPANY TO BE UNABLE TO OPERATE THE BUSINESS, E.G. USE OF MEDIATION OR ARBITRATION, DISSOLUTION OF THE COMPANY, OR THE RIGHTS OF MEMBERS OR THE COMPANY TO BUY OUT OTHER MEMBERS]

ARTICLE X - DISSOLUTION AND LIQUIDATION

10.01 **Term and Dissolution.** The Company commenced as of the date hereof and shall continue until dissolution occurs for any one of the following reasons:

[SET FORTH TRIGGERS FOR DISSOLUTION, INCLUDING E.G. UNANIMOUS (OR OTHER THRESHOLD) VOTE OF THE MEMBERSHIP INTERESTS]

10.02 **Liquidation of Company Assets.**

[SET FORTH PROCESS FOR LIQUIDATION OF COMPANY ASSETS AND DISTRIBUTION OF VALUE TO MEMBERS AND DOCUMENTATION, AND FOR THE THE ACCOUNTING THEREOF - CONSULT A TAX ATTORNEY OR ACCOUNTANT AS REQUIRED]

ARTICLE XI - GENERAL PROVISIONS

[INCLUDED BELOW IS SOME BOILERPLATE LANGUAGE INCLUDED IN MANY LLC OPERATING AGREEMENTS, DEPENDING ON THE STATE OF INCORPORATION. ALSO SEE SAMPLE LLC OPERATING AGREEMENTS FROM YOUR STATE]

11.01 **Adoption of Amendments Generally.** Any amendments to this Agreement may only be made by a written instrument executed by the Unanimous Consent of all Members.

11.02 **Title to Property.** All property owned by the Company, whether real or personal, tangible or intangible, shall be deemed to be owned by the Company as an entity, and no Member, individually, shall have any ownership of such property. The Company may hold any of its assets in its own name or, in the name of its nominee, which nominee may be one or more individuals, corporations, companies, trusts or other entities.

11.03 **Other Activities.** Except as expressly provided otherwise in this Agreement, any of the Members or their Affiliates may engage in, or possess an interest in, other business ventures of every nature and description, independently or with others, whether or not such other enterprises shall be in competition with any activities of the Company; and neither the Company nor the other Members shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived therefrom. Nothing herein contained shall be construed to constitute any Member hereof the agent of any other Member hereof or to limit in any manner the Members in the carrying on of their own respective businesses or activities.

11.04 **Applicable Law.** It is the intent of the parties hereto that all questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereto shall be determined in accordance with the provisions of the laws of the State of [STATE] in such cases made and provided, without giving effect to the choice of law rules thereof.

11.05 **Binding Agreement.** Subject to the restrictions on transfers set forth herein, this Agreement shall inure to the benefit of and be binding upon the undersigned Members and their respective heirs, executors, legal or personal representatives, successors and assigns. Whenever in this instrument a reference to any party or Member is made, such reference, where appropriate, shall be deemed to include a reference to the heirs, executors, legal or personal representatives, successors and assigns of such party or Member.

11.06 **Waiver of Partition**. Unless otherwise specifically provided in this Agreement, no Member will, either directly or indirectly, take any action to require partition or appraisement of the Real Property or the Company, and notwithstanding any provision of applicable law to the contrary, each Member (and his estate, personal or legal representative, heirs, beneficiaries, distributees and successors and assigns) hereby irrevocably waives any and all right to maintain any action for partition or to compel any sale with respect to his Membership Interest or with respect to the Real Property.

11.07 **Counterparts.** This Agreement may be executed in several counterparts, which shall be treated as originals for all purposes, and all so executed shall constitute one agreement, binding on all of the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart. Any such counterpart shall be admissible into evidence as an original hereof against the Person who executed it.

11.08 **Survival of Representations.** All representations and warranties herein shall survive the dissolution and final liquidation of the Company.

11.09 **Entire Agreement.** This Agreement (and all Exhibits hereto) contains the entire understanding among the parties hereto and supersedes all prior written or oral agreements among them respecting the within subject matter, unless otherwise provided herein. There are no representations, agreements, arrangements or understandings, oral or written, among the Members hereto relating to the subject matter of this Agreement which are not fully expressed herein and in said Exhibits.

11.10 **Waiver**. No consent or waiver, express or implied, by any Member to or of any breach or default by any other Member in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by the other in the performance by such other party of the same or any other obligations of such Member hereunder. Except as otherwise provided in Section 6.01(B) hereof, the failure on the part of any Member to object to or complain of any act or failure to act of any of the other Members or to declare any of the other Members in default, irrespective of how long such failure continues, shall not constitute a waiver by such Member of its rights hereunder.

11.11 **Titles and Captions**. All section titles or captions contained in this Agreement are for convenience only and shall not be deemed a part of the context of this Agreement.

11.12 **Exhibits**. All exhibits and schedules referred to herein and attached hereto are incorporated by reference into this Agreement.

11.13 **Time Periods**. Any time period hereunder which expires on, or any date hereunder which occurs on, a Saturday, Sunday or legal United States holiday, shall be deemed to be postponed to the next business day. The first day of any time period hereunder which runs “from” or “after” a given day shall be deemed to occur on the day subsequent to that given day.

11.14 **Gender**. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require.

11.15 **Severability**. Each provision of this Agreement shall be considered severable from the rest, and if any provision of this Agreement or its application to any Person or circumstances shall be held invalid and contrary to any existing or future law or unenforceable to any extent, the remainder of this Agreement and the application of any other provision to any Person or circumstances shall not be affected thereby and shall be interpreted and enforced to the greatest extent permitted by law so as to give effect to the original intent of the parties hereto.

**IN WITNESS WHEREOF,** this Agreement has been executed as of the day and year first above written.

MEMBERS

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[[STATE]] LLC

EXHIBIT “A”

TO

LIMITED LIABILITY COMPANY OPERATING AGREEMENT

Schedule of Members

**Percentage Capital**

**Members: Of Membership Contribution**

[[STATE]] LLC

EXHIBIT “B”

EQUIPMENT USE AGREEMENT

DISCLAIMER

The enclosed forms are prepared for illustration purposes only. No form contained in these materials should be used unless, after careful review, it is the professional judgment of the responsible attorney that the use of the particular form will accomplish the specific objectives and intentions of the attorney’s clients. The author assumes no liability for the results of the use of any form contained in these materials in any case.