

Worksheet 3.1**CHECKLIST FOR BUSINESS AGREEMENTS**

As you will note from the preceding article on business entities, a lot of decisions are required for constructing an agreement to meet your needs. The worksheet below identifies some of these decisions and provides space for you to jot down answers for discussion with your business partners, family members and professional advisers. This list includes many of the items that should be covered in a well-drafted entity agreement.

General	
Under what state law will the business be formed?	
What is the name of the business?	
Has the name been checked with the Secretary of State?	
What is the purpose of the business? (very important for farm LLCs)	
What is the term of the business?	
Is the business member managed or manager managed?	
Who is the manager if manager managed?	
Who is the agent for service of process?	
Capital Contributions	
What is the initial capital contribution of the managing member?	
What is the initial capital contribution of the other members?	
Will members be required to make additional contributions if necessary?	
What happens if a member fails to make a required capital contribution?	
What approvals are required to add new members?	
Are members allowed to withdraw their capital contributions? If so, under what circumstances?	
Is a member entitled to interest on his or her capital contributions?	
Does any member have any priority on distributions over any other members?	
Allocations	
How are profits and losses to be divided among the members?	
How are tax allocations made?	
When are distributions to be made?	

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Should the agreement require special distributions to be made to at least pay for tax on each member's pro rata income from the business?	
Compensation to the Manager	
What fees is the manager entitled to?	
What reimbursements is the manager entitled to?	
Is the manager entitled to incentive compensation?	
Books, Records, Accounts and Reports	
What books and records are to be maintained by the business?	
What access rights will the members have to books and records?	
What reports will the members be required to receive?	
Who will be the tax matters partner?	
Voting Rights	
What voting rights will the members have?	
What major actions can the manager take without other members' approval?	
Will a supermajority be required for some actions of the business?	
Meetings	
Where will meetings be held?	
How often will meetings be held?	
How can meetings (regular and special) be called?	
What notices for meetings must be given?	
What quorum is necessary for meetings?	
Can actions be taken by written consent of the members?	
Assignment and Transfer of Interests	
Do the members have the right to assign their interests in distributions?	
What rights does an assignee of a member's interest get?	
In what situations will assignment be prohibited?	
What are the procedures for substitution of members?	
What happens on the death, incompetency or bankruptcy of a member?	

Is there a right of first offer or first refusal on transfers of interests?	
Are there restrictions on transfer of ownership interests? (i.e., owners can only be direct lineal descendants of grandma or grandpa)?	
Should a buy/sell agreement be included, setting out a formula to value ownership interests upon divorce, withdrawal of an owner, etc.?	
If included, should the buy/sell agreement include terms of payment for such business interests, allowing installment payments at a modest interest rate?	
Should key person life insurance provisions be included to fund purchases of a deceased owner's interest in the business?	
Should there be a prohibition on sale of ownership without permission of the other owners?	
Termination of a Manager	
Under what circumstances can the manager voluntarily withdraw as the manager of the business?	
What are the events that will result in the manager ceasing to be the manager of the business?	
Under what circumstances can the members remove the manager?	
What happens to the manager's interest when it has ceased to be the manager?	
Dissolution and Termination of the Business.	
Under what circumstances will the business be dissolved?	
Under what circumstances can the business continue notwithstanding a technical dissolution?	
How are distributions to be made on liquidation of the business?	
Miscellaneous	
How can the business agreement be amended?	