

WHY USE A SHAREHOLDERS' OR OPERATING AGREEMENT

Without a Shareholders' or Operating Agreement, the risk for potential disagreements among business owners is heightened. Additionally, conflicts could arise with the spouse of a divorced owner, a bankruptcy trustee, or an owner's children who receive assets at their parent's death. The following are some important protections such an Agreement can offer:

- Restrict ownership to original parties;
- Provide for a mandatory buy back by owners if improper transfer occurs (through divorce, bankruptcy, mortgage, or gift);
- Provide for a buy back by owners when death of an owner occurs;
- Provide for a buy back by owners when permanent disability of an owner occurs;
- Set price for stock buy backs by owners;
- Impose a deadline for stock buy backs by owners;
- Require participation by all owners in a sale to a third party (tag along/drag along right);
- Provide structure to establish vote required for strategic decisions;
- Provide income tax language to ensure proper allocation of profits and losses;
- Provide restrictions on rights to owners' distributions;
- Provide guidelines for future capital contributions by the owners; and
- Provide protocol for owners meetings.