

Navigating Real Estate Deals: The Crucial Role of Operating and Management Agreements

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In the dynamic landscape of the real estate industry, challenges are inevitable. From managing properties to overseeing operations, conflicts can arise, leading to disputes. However, understanding the intricacies of operating and management agreements can mitigate such conflicts and pave the way for smoother operations. These agreements serve as the backbone of successful ventures, yet their significance is frequently underestimated. Here, we delve into the intricacies of operating and management agreements, shedding light on critical aspects that can make or break a successful partnership.

Management Agreements

A management agreement can act as a catalyst, either smoothing the path toward efficiency or leading the parties into litigation. This agreement delineates the obligations of all parties involved, legal provisions, terms, conditions, and notably, the management fee arrangement. While self-management may introduce a novel revenue stream, outsourcing may prove more cost-effective due to reduced overhead and payroll expenses. When entering into a management agreement, it is important

to take the following steps:

- Consider the fees and the services those fees will cover (and what services require additional compensation);
- Address any questions upfront regarding shared expenses and their allocation, as well as any additional compensation the manager will receive; and
- Determine the circumstances under which managers are required to obtain bids for certain contracts.

Operating Agreements

An operating agreement serves as the official framework binding partners to the terms. Some important elements of operating agreements include:

- Specifications around how distributions are calculated, particularly on a pro-rata basis;
- Clarification on how interests will be valued in the event of the buyout of an investor; and
- Making sure investors have rights to audit and access to the books and records of the venture, ensuring transparency and accountability.

Management and operating agreements demand meticulous scrutiny. They serve as legal blueprints guiding the course of your venture and delineating the rights and obligations of all parties involved. Both agreements form the bedrock of successful real estate ventures, shaping their trajectory and mitigating potential disputes. By carefully crafting and reviewing these agreements, stakeholders can navigate the complexities of the real estate industry with confidence and clarity, fostering mutually beneficial outcomes for all parties involved.

To learn more about the importance of operating and management agreements and the provisions that we see frequently disputed, please contact [Anthony Bracco](#), Partner and Leader of Anchin's LFVS Group, or your Anchin Relationship Partner.

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qualified attorney.