

**THE SCHOONER "SARA B", LLC
OPERATING AGREEMENT**

This Operating Agreement of The Schooner "Sara B", LLC (the "Company") is made as of April 1, 2007.

WHEREAS, Chris Gateley and Susan Gateley, as the initial members of the Company (the "Members") have caused to be formed a limited liability company pursuant to the New York Limited Liability Company Law (the "LLCL"); and

WHEREAS, the Members desires to establish the rights and obligations of members in connection with forming such limited liability company;

NOW, THEREFORE, in consideration of the mutual covenants and provisions hereinafter contained, the parties hereto hereby agree as follows:

**ARTICLE I
FORMATION AND SCOPE OF COMPANY**

1.1 *Formation of Company.* The Members have formed a limited liability company under the provisions of the LLCL by causing Articles of Organization to be filed with the New York State Secretary of State on January 26, 2007 for the purposes and on the terms hereinafter set forth. The rights and liabilities of the Members shall be as provided in the LLCL, except as is otherwise expressly provided herein.

1.2 *Name.* The name of the Company is The Schooner "Sara B", LLC.

1.3 *Principal Place of Business.* The principal place of business of the Company within the State of New York shall be 12025 Delling Road, Wolcott, New York 14590. The Company may establish any other places of business as the Manager may from time to time deem advisable.

1.4 *Registered Agent.* The Company's registered agent shall be Chris Gateley having a registered office at 12025 Delling Road, Wolcott, New York 14590.

1.5 *Duration.* The Company will exist until dissolved as provided in this agreement.

1.6 *Purposes.* The Company is formed for the purpose of engaging in the business of maintaining, restoring, improving and operating the schooner "Sara B" currently based in Fair Haven, NY, and providing opportunities for people to be involved in that business. The Company has the power to do all things necessary, incident, or in furtherance of that business. In addition, the Company is formed for any lawful business purpose or purposes.

**ARTICLE II
MEMBERS**

2.1 *Name and Address.* The name and address of the Initial Members are as set forth in Exhibit A of this Agreement.

2.2 *Additional Members.* Other persons may be admitted as members after the date of this Agreement at the Annual Meeting of the Members or at other times upon the recommendation of the Managers and consent of at least two-thirds of all Membership Interests. As new Members are added, Exhibit A will be revised to reflect the new percentage of ownership.

2.3 *Limitation of Liability.* Each Member's liability shall be limited as set forth in this Agreement, the LLCL and other applicable law. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of his or her Capital Contribution as set forth in this Agreement, the LLCL and other applicable law.

2.4 *Sale of All Assets.* The Members shall have the right by the vote or written consent of at least two-thirds of all Membership Interests, to approve the sale, lease, exchange or other disposition of all or substantially all of the assets of the Company.

2.5 *Priority and Return of Capital.* No Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Net Profits, Net Losses or a Distribution; provided, however, that this Section shall not apply to loan or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.

2.6 *Liability of a Member to the Company.* A Member who rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the LLCL.

2.7 *Financial Adjustments.* No Members admitted after the date of this Agreement shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Managers may, at their discretion, at the time a Member is admitted, close the books and records of the Company (as though the Fiscal Year had ended) or make pro rata allocations of loss, income and expenses deductions to such Member for the portion of the Fiscal Year in which such Member was admitted in accordance with the Internal Revenue Code of 1986, as amended, (the "Code"), or any superseding federal revenue statute.

2.8 *Removal of Members.* If at any time a Member's percentage of ownership is less than 1%, the Member shall be removed as a Member. His/her Capital Contribution will remain on the Company books and will be added to any future Capital Contributions.

ARTICLE III MANAGEMENT

3.1 *Management.* As indicated in the Articles of Organization, management of the Company shall be vested in the Managing Members. Any Managing Member shall have and be subject to all the duties and liabilities of the Managers.

3.2 *Number, Tenure and Qualifications of Managers.* Chris Gateley and Susan Gateley, as the initial Members of the Company shall serve as the Managers of the Company. In the event other members are added to the Company, the number of Managers may be amended from time to time by the vote or written consent of at least 50% of all Membership Interests. Each Manager shall hold office until the next annual meeting of Members or until a successor shall have been elected and qualified. Managers shall be elected by the vote or written consent of at least a majority of all Membership Interests and need not be Members of the Company.

3.3 *Powers of Managers.* Except as set forth in this Agreement, the Managers shall have power and authority, on behalf of the Company to (a) purchase, lease, or otherwise acquire from, or sell, lease or otherwise dispose of, any property to any person or entity; (b) open bank accounts and otherwise invest the funds of the Company, (c) purchase insurance on the business and assets of the Company, (d) commence lawsuits and other proceedings, (e) enter into any agreement, instrument or other writing, (f) retain accountants, attorneys, or other agents and (g) take any other lawful action that the Managers considers necessary, convenient or advisable in connection with any business of the Company, except that any alteration in the normal course of Company business involving an expenditure in the amount of \$1000 or more shall be approved by majority vote of all the Members at a duly constituted meeting.

3.4 *Binding Authority.* The Managers shall have the power and authority to bind the Company. No other person shall have any power or authority to bind the Company unless such person has been authorized by the Managers to act on behalf of the Company.

3.5 *Liability for Certain Acts.* The Managers shall perform their duties in good faith, in a manner they reasonably believe to be in the best interest of the Company and with such care as an ordinarily prudent person in a similar position would use under similar circumstances. A Manager who so performs such duties shall not have any liability by reason of being or having been a Manager. The Managers shall not be liable to the Company or any Member for any loss or damage sustained by the Company or any Member, unless the loss or damage shall have been the result of the gross negligence or willful misconduct of such Manager. Without limiting the generality of the preceding sentence, a Manager does not in any way guaranty the return of any Capital Contribution to a Member or a profit for the Members from the operations of the Company.

3.6 *No Exclusive Duty to Company.* The Managers shall not be required to manage the Company as their sole and exclusive function and they may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right pursuant to this Agreement to share or participate in such other business interests or activities or to the income or proceeds derived therefrom. The Managers shall incur no liability to the Company or any Member as a result of engaging in any other business interests or activities.

3.7 *Indemnification.* The Company shall indemnify and hold harmless the Managers from and against all claims and demands to the maximum extent permitted under the LLCL.

3.8 *Salaries.* The salaries and other compensation of the Managers shall be fixed from time to time by the vote or written consent of at least a majority of the Membership Interests. No manager shall be prevented from receiving such a salary or other compensation because such Manager is also a Member. Initially, the Managers will receive no salary or compensation.

3.9 *Officers.* The Managers may designate one or more individuals as officers of the Company, who shall have such titles and exercise and perform such powers and duties as shall be assigned to them from time to time by the Managers. Any officer may be removed by the Managers at any time, with or without cause. Each officer shall hold office until his or her successor is elected and qualified. Any number of offices may be held by the same individual. The salaries and other compensation, if any, of the officers shall be fixed by the Managers. Initially, Managers shall designate the following officers with the respective duties and responsibilities:

Ship's Purser – Responsible for purchases, supplies and financial records

Ship Keeper – Responsible for overseeing work performed and job assignments

Sail Master – Responsible for sail schedules and crew assignments.

ARTICLE IV MEETINGS OF MEMBERS

4.1 *Annual Meeting.* The annual meeting of the Members shall be held each September 30 or at such other time as shall be determined by the vote or written consent of the Membership Interests for the purpose of the transaction of any business as may come before such meeting.

4.2 *Special Meetings.* Special meetings of the Members, for any purpose or purposes, may be called by any Manager or any Member holding not less than ten percent (10%) of the Membership Interests.

4.3 *Place of Meetings.* Meetings of the Members may be held at any place, within or outside the State of New York, for any meeting of the Members designated in any notice of such meeting. If no such designation is made, the place of any such meeting shall be the chief executive office of the Company.

4.4 *Notice of Meetings.* Written notice stating the place, day and hour of the meeting indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called shall be delivered no fewer than ten (10) nor more than sixty (60) days before the date of the meeting.

4.5 *Record Date.* For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment of such meeting, or Members entitled to receive payment of any Distribution, or to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring Distribution is adopted, as the case may be, shall be the record date for making such a determination. When a determination of Members entitled to vote at any meeting of Members has been made pursuant to this Section, the determination shall apply to any adjournment of the meeting.

4.6 *Quorum.* Members holding not less than a majority of all Membership Interests, represented in person, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a majority of the Membership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice.

4.7 *Manner of Acting.* If a quorum is present at any meeting, the vote or written consent of Members holding not less than a majority of Membership Interests shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the LLCL, the Articles of Organization or this Agreement.

ARTICLE V CAPITAL CONTRIBUTIONS

5.1 *Capital Contributions.* Each Member shall contribute the amount set forth in Exhibit B to this Agreement as the Capital Contribution of the Member. As new Members are added, Exhibits A and

B will be revised to reflect the new division of ownership and amount of Capital Contributions. Capital Contributions may be in the form of cash, personal property, or work performed as the Members shall determine.

5.2 *Additional Contributions.* Except as set forth in Section 5.1 of this Agreement, no Member shall be required to make any Capital Contribution.

5.3 *Capital Accounts.* A Capital Account shall be maintained for each Member. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses and other allocations to such Member pursuant to the Code.

5.4 *Modifications.* The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Section 704(b) of the Code. If in the opinion of the Managers the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

ARTICLE VI CLASSIFICATION AND DISTRIBUTIONS

6.1 *Classification for tax purposes.* The company shall be classified, for tax purposes, as a corporation.

6.2 *Distributions.* The Managers may from time to time, in the discretion of the Managers, make Distributions to the Members. However, in the normal course of Company business it is expected no Distributions will be made.

ARTICLE VII DISSOLUTION

7.1 *Dissolution.* The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:

(a) The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;

(b) The vote or written consent of at least one-half (1/2) in interest of all Members; or

(c) The bankruptcy, death, dissolution, expulsion, incapacity or withdrawal of any Member or the occurrence of any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event the Company is continued by the vote or written consent of a majority in interest of all of the remaining Members.

7.2 *Winding Up.* Upon the dissolution of the company, the Managers may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal or administrative,

sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

(a) To creditors, including any Member who is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members under Section 507 or Section 509 of the LLCL;

(b) To Members and former Members in satisfaction of liabilities for Distributions under Section 507 or Section 509 of the LLCL; and

(c) To Members first for the return of their Capital Contributions, to the extent not previously returned, and second respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

7.3 Articles of Dissolution. Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, articles of dissolution shall be filed with the New York Secretary of State pursuant to the LLCL.

7.4 Deficit Capital Account. Upon a liquidation of the company, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

7.5 Nonrecourse to Other Members. Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each member shall receive a return of his, her or its Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against any other Member.

7.6 Termination. Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE VIII GENERAL PROVISIONS

8.1 Notices. Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if (a) delivered personally to the party or to an executive officer of the party to whom such notice, demand or other communication is directed or (b) sent by registered or certified mail, postage prepaid, addressed to the Member or the Company at his, her or its address set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given three (3) business days after the date on which it was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as set forth in this Section.

8.2 *Amendments.* This Agreement contains the entire agreement among the Members with respect to the subject matter of this Agreement, and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made, by the Members with respect thereto, whether or not relied or acted upon. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Agreement or impair or otherwise affect any Member's obligations pursuant to this Agreement or any rights and remedies of a Member pursuant to this Agreement. No amendment to this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each provision of this Agreement being amended.

8.3 *Construction.* Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

8.4 *Headings.* The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

8.5 *Waiver.* No failure of a member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in writing duly executed by all Members and specifically referring to each such right or remedy being waived.

8.6 *Severability.* Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

8.7 *Binding.* This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assignees or the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.

8.8 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

8.9 *Governing Law.* This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the individuals and entities signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

CHRIS A. GATELEY

SUSAN GATELEY

EXHIBIT A

<u>MEMBER</u>	<u>MEMBERSHIP INTEREST</u>
CHRIS A. GATELEY	50%
SUSAN GATELEY	50%

**EXHIBIT B
CAPITAL CONTRIBUTIONS**

<u>MEMBER</u>	<u>CAPITAL CONTRIBUTION</u>	<u>%/CAPITAL ACCOUNT</u>
CHRIS A. GATELEY	½ ownership interest in Schooner and inventory listed in Exhibit C valued at \$9,500; \$500 cash	50%
SUSAN. GATELEY	½ ownership interest in Schooner and inventory listed in Exhibit C valued at \$9,500; \$500 cash	50%

EXHIBIT B
SCHOONER INVENTORY

- The Schooner *Sara B*, a 38' lod, 47' loa, schooner of wood construction, built in the early 1950's, registered in New York as NY6139HR
- 4 lower dacron sails, cotton fisherman staysail, 4 lower cotton sails
- All necessary standing rigging as she was rigged Sept 15, 2006
- All necessary running rigging as she was rigged Sept 15, 2006
- All attached deck hardware, including manual windlass, as she was Sept 15, 2006
- Thorneycroft diesel engine, transmission, shaft, propeller, and controls
- All batteries, electronics, and instrumentation as she had Sept 15, 2006
- 1 50lb fisherman anchor and chain rode
- 1 steel Danforth style anchor and rope/chain rode
- Fenders and docklines as she was provided Sept 15, 2006
- 2 solar panels
- All galley equipment, including Origo alcohol stove, as she had Sept 15, 2006
- All tankage as she had Sept 15, 2006
- Basic set of tools and spare fasteners and other hardware
- All lead ballast, in the form of bars, as she was loaded with on Sept 15, 2006