

33 Point LLC Checklist

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This checklist is designed to help LLC owners, and individuals contemplating the creation of a LLC, consider the various manners in which they can form their Limited Liability Company (LLC). The checklist is not exhaustive, it is not intended nor should it be considered legal advice, and it is in no way a substitute for speaking with an attorney. There are many benefits to using the LLC business structure, but there are equally as many pitfalls you will want to avoid in so doing. As such, it is my recommendation that you use this checklist as a guide and a discovery tool to help you when speaking with an attorney.

General Information:

1. Name, phone, email, and Address for each Member¹:
 - a. _____
 - b. _____
 - c. _____
 - d. _____
2. Name of LLC: _____
3. Other Names LLC may go by: _____
4. Member Managed or Manager Managed? _____
5. Conflict Waiver Required? _____ If yes, signed?

¹ Member: a person, or entity (another LLC, trust, etc.), that owns an interest in the LLC. The information contained in this paper is for general information purposes only. It is not legal advice, nor does your viewing it create an attorney-client relationship with Scott Welch or Welch Law LLC. The choice of a lawyer is an important decision and should not be based solely upon advertisements.

6. Name, address, and phone of Registered Agent²: _____

7. Address of LLC: _____

8. Name and address of Organizer³: _____

9. Effective date of organization: _____

10. Formed by conversion or merger? _____

11. Is Operating Agreement to be signed by LLC? _____

12. How is the LLC to be taxed?

a. Single Member LLC:

b. Partnership:

c. S-Corp:

d. C-Corp:

13. LLC's purpose (primary function): _____

14. Fiscal year:

a. Calendar Year

b. Other _____

15. Accountant name, address, phone, for LLC: _____

² Registered Agent: person, or entity, designated to receive service of process and other notifications on behalf of LLC

³ Organizer: person, or entity, that help form the LLC

16. Accounting method:

- a. Cash
- b. Accrual

17. Financial statements to members:

- a. Regular financial reports provided:
- b. Audited financial reports provided:
- c. Either, or both, but only upon request:

18. Capital contributions:

a. Initial Contributions:

Member	Form (\$, assets, etc.)	Value

b. Additional Contributions:

- i. Required? Yes No
- ii. Capital calls permitted? Yes No

1. Who can make the call? _____

2. Or, specific event, circumstance, etc.? _____

iii. Consequences of failing to fund? _____

19. Distributions:

- a. In proportion to capital contribution?
- b. Will any members receive preferential return on, or of, capital?
- c. Will operating distributions and capital distributions be treated differently?
- d. Guaranteed payments: _____

e. Sharing Ratios and Units:

Member	Sharing Ratio	Units

f. How will capital accounts be maintained?

- i. Tax Basis:
- ii. GAAP:
- iii. Other:

20. Transfers of membership interest:

a. Voluntary transfers:

- i. Prohibited
- ii. Permitted, but assignee not admitted without consent of _____% of other members
- iii. Permitted only with consent of _____% of other members
- iv. Permitted, only to spouse, children, and/or trust

b. Involuntary transfers:

- i. Assignee not admitted without consent of all other members
- ii. Assignee not admitted without consent of _____% of other members

c. Right of first refusal/offer: _____

21. Disengagement arrangements (Buy/Sell, Puts, Calls):

a. When triggered? _____

b. Price per Unit? _____

22. Dissociation:

- a. Member withdraw is not permitted? _____
- b. Member may withdraw upon consent of: _____
- c. Death, disability, dissolution, or bankruptcy of member:
 - i. Member's heir becomes member
 - ii. Member's heir becomes assignee
 - iii. Member's interest repurchased from heir
 - iv. Member's heir becomes member with consent of _____% of remaining members
 - v. Should this be the same for each contingency?

23. Who can amend the Operating Agreement? _____

24. How are votes by the LLC to be obtained? _____

25. If member managed, what percentage of membership interest is required to perform actions on behalf of the LLC?⁴ _____

26. If manager managed:

a. Number of Managers: _____

b. Will there be a board of managers?

c. Names, addresses, and titles of Managers:

Name	Address	Title

⁴ There exist infinite number of possible actions the LLC can take, it is important to carefully consider this decision and the answer may be different for routine actions and non-routine actions.

- d. Selection of Managers: _____
- e. Term of managers appointment: perpetual, periodic, etc: _____
- f. Removal of managers: _____
 - i. For cause?
 - ii. Any reason?
- g. What authority do(es) manager have to bind LLC? _____

27. Manager's duty of care? _____

- a. Right to compete? _____
- b. Duty to offer opportunities to the LLC? _____
- c. Good faith/fair dealing? _____
- d. Member approval for conflict of interest transaction(s): _____

28. Is business already in operation as sole proprietorship or partnership? If yes, then:

- a. Transfer of documents of assets in exchange of capital contribution?
- b. Tax considerations for initial contributions:

29. Registration of company and/or tradename is not trademark protection.

30. Other advisors LLC and/or members consult:

- a. Financial Advisor:
- b. Estate planning attorney:
- c. Accountant:
- d. Other advisor(s):

31. Dissolution of LLC:

a. Voluntary dissolution:

i. Membership _____% required

ii. Specific event: _____

b. Involuntary Dissolution:

i. Deadlock

ii. Administrative

iii. Judicial

32. Winding up LLC:

a. Who has authority? _____

b. Publication Requirement: _____

c. Change in fiduciary duties: _____

33. Dispute Resolution:

a. Mediation? _____ Arbitration? _____

b. Jurisdiction: _____ Venue: _____

c. Waiver of jury trial?

As you can see in reviewing this checklist, forming an LLC requires some thought and careful considerations. While not every question will apply to every LLC, I highly encourage you to speak with an attorney about the various options and how each may impact your end goals and desires. Please feel free to contact me via any of the information on the first page of this document if you have any questions or if you are interested in obtaining an initial consultation.

Respectfully,

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