

**SOUTH DAKOTA LIMITED LIABILITY COMPANY
MANAGER-MANAGED OPERATING AGREEMENT**

Governed by the South Dakota Uniform Limited Liability Company Act, SDCL Title 47, Chapter 34A

**ARTICLE I
ORGANIZATION**

1.01 Formation and Governing Law.

This Limited Liability Company (the “Company”) is organized under the South Dakota Uniform Limited Liability Company Act, Title 47, Chapter 34A (the “Act”). The rights and obligations of the Members and the governance of the Company are subject to the Act except as expressly modified by this Agreement.

1.02 Company Name.

The legal name of the Company is:

1.03 Articles of Organization.

The Company was formed by filing Articles of Organization with the South Dakota Secretary of State under SDCL § 47-34A-203. Filing fee: \$150 online; \$165 by mail (includes \$15 paper filing surcharge). This Operating Agreement is an internal document and is NOT filed with the South Dakota Secretary of State.

1.04 Operating Agreement — Need Not Be in Writing.

Under SDCL § 47-34A-103(a), all members of an LLC may enter into an operating agreement that “need not be in writing.” Oral and implied agreements are legally recognized under South Dakota law. This Agreement is adopted in WRITTEN form for evidentiary clarity, banking requirements, and enforceability. The South Dakota Secretary of State confirms that LLC operating agreements are internal company documents and are NEVER filed with the Secretary of State.

1.05 Single-Member Enforceability.

The statutory definition of “operating agreement” under South Dakota law expressly states that an operating agreement of an LLC having only one member “shall not be unenforceable by reason of there being only one person who is a party to the operating agreement.” This Agreement is valid and binding whether signed by one member or more.

1.06 Non-Overridable Provisions ({SDCL} § 47-34A-103(b)).

This Agreement may NOT eliminate the following protections:

- (a) The duty of loyalty (SDCL § 47-34A-409), though it may identify categories of permitted activities and approval mechanisms if not manifestly unreasonable.
- (b) The obligation of good faith and fair dealing, though it may set standards for performance if not manifestly unreasonable.
- (c) The right to expel a member in circumstances specified in SDCL § 47-34A-601(6).
- (d) The duty to wind up the company in cases specified in SDCL § 47-34A-801(a)(3) and (4).
- (e) Rights of non-members (third parties) granted by the Act.

1.07 Registered Agent and Registered Office.

Under SDCL § 47-34A-203, the Company must maintain a registered agent with a physical address in South Dakota. The registered agent is named in the Articles of Organization and the South Dakota Model Registered Agents Act applies.

Registered Agent Name:

Registered Office Address:

1.08 Principal Office.

The principal office of the Company is:

Principal Office Address:

1.09 Purpose.

The Company is organized to engage in:

and any lawful activity permitted under the Act.

1.10 Annual Report.

Under SDCL § 47-34A-211, every South Dakota LLC must file an annual report with the South Dakota Secretary of State. Current fees (as of July 1, 2025): \$55 online; \$70 by mail (includes \$15 paper surcharge). Late fee: \$50 per delinquent report. Reinstatement fee for administratively dissolved domestic LLCs: \$150 plus delinquent reports and fees. [VERIFY due date directly with the South Dakota Secretary of State Business Search for your entity, as due-date formulas conflict across secondary sources.]

1.11 Tax Environment.

South Dakota has NO state personal income tax and NO state corporate income tax. There is NO state franchise tax on LLCs. Ongoing state-level obligations focus on: (a) the annual report to the South Dakota Secretary of State; and (b) transaction-based taxes (sales and use tax, contractor excise, etc.) administered by the South Dakota Department of Revenue, where applicable. Federal tax classification: disregarded entity (single-member) or partnership (multi-member) by default; corporate treatment via IRS Form 8832 or S-corp election via Form 2553.

FinCEN BOI: Under the March 2025 interim final rule, domestic U.S. entities (including domestic South Dakota LLCs) are currently EXEMPT from BOI reporting. Foreign entities should verify at fincen.gov/boi.

1.12 No Publication Requirement.

South Dakota does NOT impose a newspaper publication requirement for forming or maintaining a domestic LLC.

ARTICLE II DEFINITIONS

As used in this Agreement, the following terms have the meanings set forth below:

- (a) “Act” means the South Dakota Uniform Limited Liability Company Act, Title 47, Chapter 34A, as amended.
- (b) “Agreement” means this written Operating Agreement, as amended.
- (c) “Articles” means the Company’s Articles of Organization filed with the South Dakota Secretary of State under SDCL § 47-34A-203, as amended.
- (d) “Capital Account” means the account maintained for each Member reflecting contributions, allocated profits/losses, and distributions.
- (e) “Contribution” means cash, property, or services contributed by a Member, as documented in Exhibit 1.
- (f) “Ownership Interest” means a Member’s interest as set forth in Exhibit 1.
- (g) “Transferable Interest” / “Distributional Interest” means the economic right to receive distributions from the Company under SDCL § 47-34A-503. Transfer of this interest does NOT automatically confer member status or management rights.
- (h) “Charging Order” means the exclusive remedy under SDCL § 47-34A-504 for a judgment creditor to reach a member’s distributional interest. A charging-order holder receives distributions only and gains no management or member rights.
- (i) “Excluded Manager” means a manager designated under SDCL § 47-34A-304 (added by HB 1106, 2023) whose duties are limited as specified in this Agreement.

(j) "SOS" means the South Dakota Secretary of State.

ARTICLE III CAPITAL CONTRIBUTIONS AND ACCOUNTS

III.01 Initial Capital Contributions.

Each Member's initial Contribution and Ownership Interest are set forth in Exhibit 1. Capital contributions may consist of cash, property, or services, with an agreed valuation stated in Exhibit 1.

III.02 Capital Accounts.

The Company shall maintain a separate Capital Account for each Member, credited with contributions and allocated profits, and debited with distributions and allocated losses, consistent with Treasury Regulation § 1.704-1(b)(2)(iv).

III.03 Additional Contributions.

No Member shall be required to make any additional Contribution without the written consent of all Members.

III.04 No Interest or Remuneration.

No Member is entitled to interest on Contributions or to remuneration for services performed for the Company solely by reason of being a Member, unless this Agreement separately provides.

ARTICLE IV ALLOCATIONS AND DISTRIBUTIONS

IV.01 Profit and Loss Allocation.

Profits and losses shall be allocated among the Members in proportion to their Ownership Interest percentages in Exhibit 1, consistent with SDCL § 47-34A-405.

IV.02 Distributions.

Distributions shall be declared by the Authorized Persons and allocated in proportion to each Member's Ownership Interest. Authorized by:

Authorized by:

IV.03 Restrictions on Distributions.

Under SDCL §§ 47-34A-405 and 47-34A-406, no distribution may be made if, after the distribution, the Company would be unable to pay its debts as they become due in the ordinary course. Members or managers who approve an improper distribution face strict personal liability under § 47-34A-406.

IV.04 Tax Distributions.

To the extent funds are available, the Company shall make annual tax distributions estimated to cover each Member's federal income tax liability attributable to Company income, before any discretionary distributions. NOTE: South Dakota has no state personal income tax, so no state income tax distribution reserve is required.

ARTICLE V MANAGEMENT — MANAGER-MANAGED

V.01 Manager-Managed Structure.

Under SDCL § 47-34A-203(a)(6), manager-managed status **MUST BE STATED IN THE ARTICLES OF ORGANIZATION**. This Company's Articles designate the Company as manager-managed and name the initial managers. Under SDCL § 47-34A-404.1, in a manager-managed LLC each manager has **EQUAL RIGHTS** in management; day-to-day decisions are made by a **MAJORITY OF MANAGERS**.

V.02 Initial Manager(s).

The initial Manager(s) of the Company are:

Manager 1 Name:

Manager 1 Address:

Manager 2 Name (if any):

Manager 2 Address:

V.03 Manager Authority.

Each Manager may bind the Company in the ordinary course, including:

- (a) Executing contracts and instruments on behalf of the Company.
- (b) Opening and managing bank accounts and credit facilities.
- (c) Hiring, supervising, and terminating employees and contractors.
- (d) Acquiring, encumbering, and disposing of Company assets in the ordinary course.
- (e) Filing the annual report with the SOS and applicable state tax registrations.

Signing cap:

V.04 Excluded Manager Option (§ 47-34A-304, HB 1106, 2023).

SOUTH DAKOTA UNIQUE FEATURE: SDCL § 47-34A-304 (added by HB 1106, Chapter 233, 2023 session) allows this Agreement to designate one or more EXCLUDED MANAGERS whose duties are limited as specified. An excluded manager is relieved of specified management obligations, enabling tiered governance (e.g., separating strategic, operational, and advisory roles). IMPORTANT: The excluded manager carve-out CANNOT eliminate the non-waivable provisions in SDCL § 47-34A-103(b) or the fiduciary duties in § 47-34A-409.

Excluded Manager (if any):

V.05 Actions Requiring Unanimous Member Consent.

Under SDCL § 47-34A-404.1, the following require UNANIMOUS member consent even in a manager-managed LLC, absent contrary provision:

- (a) Amending this Operating Agreement.
- (b) Admitting a new Member.
- (c) Making certain distributions.
- (d) Sale of substantially all of the Company's assets.
- (e) Dissolution of the Company.

Member unanimous threshold:

V.06 Manager Selection and Removal.

Manager removal threshold:

V.07 Manager Fiduciary Duties (§ 47-34A-409).

Under SDCL § 47-34A-409, Managers owe a duty of loyalty, duty of care, and obligation of good faith and fair dealing. Modifications are permitted if not manifestly unreasonable. These duties cannot be eliminated (SDCL § 47-34A-103(b)).

V.08 Charging Order (§ 47-34A-504).

Under SDCL § 47-34A-504, the charging order is the EXCLUSIVE REMEDY for a judgment creditor against a Member's distributional interest. A charging-order holder receives distributions only.

**ARTICLE VI
TRANSFER OF MEMBERSHIP INTERESTS**

VI.01 Distributional Interest — Economic Rights Only.

Under SDCL § 47-34A-503, a Member may transfer a distributional (economic) interest in the Company. A transferee of a distributional interest does NOT automatically: become a Member; gain management or voting rights; or access Company records. The transferee receives distributions only.

VI.02 Admission of Transferee as Member.

A transferee may be admitted as a Member only as provided in this Agreement. Under SDCL § 47-34A-404.1, admission requires unanimous member consent absent a contrary provision. Elected threshold:

Admission threshold:

VI.03 Transfer Restrictions.

The Members impose the following restrictions on transfers:

Transfer restrictions:

VI.04 Right of First Refusal.

Before transferring any interest to a third party, the transferring Member shall offer it pro-rata to remaining Members. Remaining Members have:

Days to exercise ROFR:

VI.05 Buy-Sell Provisions.

Buy-sell trigger events:

- (a) Voluntary sale or transfer.
- (b) Death of a Member.
- (c) Disability or incapacity.
- (d) Bankruptcy.
- (e) Divorce (involuntary transfer).
- (f) Expulsion under § 47-34A-601(6).

Valuation method:

Payment timeline:

VI.06 Charging Order Protection (§ 47-34A-504).

The charging order is the EXCLUSIVE remedy for a judgment creditor to reach a Member's distributional interest (SDCL § 47-34A-504). No transferee — including a charging-order holder — automatically becomes a Member without admission under this Agreement.

**ARTICLE VII
MEMBER RIGHTS AND OBLIGATIONS**

7.01 Members Are Not Automatic Agents.

In a manager-managed LLC, Members who are not also Managers have no management authority solely by reason of membership.

7.02 Equal Rights Default Override.

The equal-rights management default of SDCL § 47-34A-404.1 is overridden by the manager-managed designation in Article V.

7.03 Member Reserved Powers.

Members retain unanimous-consent rights under SDCL § 47-34A-404.1 for extraordinary actions listed in Section V.05.

**ARTICLE VIII
ADMISSION OF NEW MEMBERS**

8.01 Admission Requirements.

Admission threshold:

**ARTICLE IX
LIABILITY AND INDEMNIFICATION**

IX.01 Liability Shield.

Under SDCL § 47-34A-303, Members and Managers are not personally liable for the Company's debts, obligations, or liabilities solely because of their membership or management status.

IX.02 Indemnification.

The Company may indemnify and hold harmless any Member, Manager, or agent for acts taken in good faith in the best interests of the Company. No indemnification is permitted for acts that violate the non-waivable provisions of SDCL § 47-34A-103(b) or the fiduciary duties in § 47-34A-409. Scope:

Indemnification scope:

IX.03 Fiduciary Duty Floor (§ 47-34A-103(b)).

The duty of loyalty, obligation of good faith and fair dealing, and other non-waivable protections in SDCL § 47-34A-103(b) cannot be eliminated by this Agreement. Any modification must not be “manifestly unreasonable” (SDCL § 47-34A-409).

IX.04 Insurance.

The Company may purchase and maintain liability insurance on behalf of any Member, Manager, or agent.

**ARTICLE X
DISSOLUTION AND WINDING UP**

X.01 Dissolution Events.

The Company dissolves upon (SDCL § 47-34A-801):

- (a) An event specified in this Agreement (e.g., term expiration, milestone).
- (b) Unanimous written member consent to wind up.
- (c) Judicial dissolution on specified grounds.
- (d) Administrative dissolution by the SOS for failure to file annual reports.

NOTE: This Agreement CANNOT override the duty to wind up in cases under § 47-34A-801(a)(3) and (4). Elected voluntary dissolution threshold:

Dissolution threshold:

X.02 Winding Up.

Upon dissolution: (a) collect and liquidate assets; (b) pay creditors; (c) distribute remaining assets to Members in proportion to their Ownership Interest percentages. File Articles of Dissolution / Termination with the South Dakota Secretary of State.

X.03 Dispute Resolution.

To resolve disputes or deadlock before dissolution:

Dispute method:

**ARTICLE XI
AMENDMENTS**

XI.01 Amendment Threshold.

Under SDCL § 47-34A-404.1, amending this Agreement requires UNANIMOUS member consent absent a contrary provision. Elected threshold:

Amendment threshold:

XI.02 Written Amendments Recommended.

Although SDCL § 47-34A-103(a) recognizes oral and implied operating agreements, all amendments to this written Agreement should be IN WRITING and signed by the required threshold of Members.

XI.03 Articles Alignment.

Amendments affecting the management structure (member-managed vs. manager-managed designation, addition or removal of managers) may require filing an amendment to the Articles of Organization with the South Dakota Secretary of State under SDCL § 47-34A-203.

**ARTICLE XII
GENERAL PROVISIONS**

XII.01 Entire Agreement.

This Agreement and the Articles of Organization constitute the entire agreement among the Members and supersede all prior oral, written, and implied arrangements.

XII.02 Severability.

If any provision is found invalid or unenforceable, the remaining provisions continue in full force.

XII.03 Governing Law.

This Agreement shall be governed by the laws of the State of South Dakota, specifically the South Dakota Uniform Limited Liability Company Act, Title 47, Chapter 34A.

XII.04 Dispute Resolution.

Disputes arising out of or relating to this Agreement shall be resolved as follows:

Method:

XII.05 Notices.

All notices shall be in writing and delivered by personal delivery, certified U.S. mail, or e-mail with confirmation.

XII.06 Counterparts and Signatures.

South Dakota law does not require notarization of an operating agreement. This Agreement is NOT filed with the South Dakota Secretary of State. All Members should sign.

XII.07 No Third-Party Beneficiaries.

This Agreement is for the benefit of the Members and the Company.

XII.08 Further Assurances.

Each Member shall execute additional documents and take actions reasonably necessary to carry out the purposes of this Agreement.

SIGNATURE PAGE — MANAGERS

IN WITNESS WHEREOF, the Manager(s) have executed this Operating Agreement. IMPORTANT: manager-managed status must be designated in the Articles of Organization (SDCL § 47-34A-203(a)(6)). South Dakota law does not require notarization. NOT filed with the South Dakota Secretary of State.

Company Name:

Effective Date:

Manager 1 Signature: _____

Printed Name:

Date:

Address:

Manager 2 (if any) Signature: _____

Printed Name:

Date:

Address:

SIGNATURE PAGE — MEMBERS

The Members hereby adopt this Operating Agreement.

Member 1 Signature: _____

Printed Name:

Date:

Address:

Member 2 Signature: _____

Printed Name:

Date:

Address:

Member 3 Signature: _____

Printed Name:

Date:

Address:

(Attach additional signature pages for additional Members.)

EXHIBIT 1
CAPITAL CONTRIBUTIONS AND OWNERSHIP INTERESTS

Company Name:

Member / Manager Name	Address	Role	Contribution (\$)	Ownership (%)
<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 130px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 130px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 130px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>
<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 180px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>	<input style="width: 130px; height: 20px;" type="text"/>	<input style="width: 80px; height: 20px;" type="text"/>

Total Ownership: %

Manager-managed designation **MUST** appear in Articles (SDCL § 47-34A-203(a)(6)). Excluded manager option available under SDCL § 47-34A-304 (HB 1106, 2023) — see Section V.04. Charging order is **EXCLUSIVE** creditor remedy (SDCL § 47-34A-504). No South Dakota state income tax.

LEGAL DISCLAIMER

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Your South Dakota LLC Resources:

- <https://boostsuite.com/llc-operating-agreement/south-dakota/>
- <https://boostsuite.com/how-to-start-an-llc/south-dakota/>
- <https://boostsuite.com/how-to-start-an-llc/cost/south-dakota/>

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