

STATE OF WEST VIRGINIA  
**SINGLE-MEMBER LIMITED LIABILITY COMPANY  
OPERATING AGREEMENT**

Pursuant to Chapter 31B of the West Virginia Code  
(West Virginia Uniform Limited Liability Company Act)

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**ARTICLE I  
ORGANIZATION**

**1.01 Formation.**

This Limited Liability Company (the "Company") has been organized as a West Virginia limited liability company by filing Articles of Organization (Form LLD-1) with the West Virginia Secretary of State, Business and Licensing Division, pursuant to the West Virginia Uniform Limited Liability Company Act, Chapter 31B of the West Virginia Code (the "Act"). This Operating Agreement is entered into pursuant to W. Va. Code § 31B-1-103.

**1.02 Company Name.**

The name of the Company as it appears on the Articles of Organization (Form LLD-1) filed with the West Virginia Secretary of State is:

NOTE: The Company name in this Agreement must match Form LLD-1 exactly. A name mismatch is the most common reason West Virginia banks reject business account applications.

**1.03 Principal Office.**

The principal office and place of business of the Company is located at:

City:

State:

Zip Code:

**1.04 Registered Agent.**

The Company shall at all times maintain a registered agent in the State of West Virginia, as required by Chapter 31B of the Act. The registered agent must match the information on the Articles of Organization (Form LLD-1) on file with the Secretary of State. The current registered agent is:

Name:

Street Address:

City, State, Zip:

### **1.05 Management Structure.**

The Company is organized as a single-member, member-managed limited liability company. The sole Member has full and exclusive management authority as described in Article V, pursuant to W. Va. Code § 31B-4-404. Under § 31B-2-202, West Virginia recognizes LLCs organized by one or more persons.

### **1.06 Purpose.**

The purpose of the Company is to engage in any lawful business or activity permitted under the laws of the State of West Virginia and any other applicable jurisdiction. The specific business purpose, if any, is:

### **1.07 Effective Date.**

This Operating Agreement is effective as of the date the Articles of Organization were accepted by the West Virginia Secretary of State, or such other date as stated below:

Effective Date:

## **ARTICLE II DEFINITIONS**

As used in this Operating Agreement, the following terms shall have the meanings set forth below. Capitalized terms not otherwise defined shall have the meanings ascribed to them in the Act.

**"Act"** means the West Virginia Uniform Limited Liability Company Act, Chapter 31B of the West Virginia Code, as amended from time to time.

**"Annual Report"** means the annual report filed with the West Virginia Secretary of State, due each year between January 1 and June 30, with a \$25 filing fee. Late filing may result in penalties (approximately \$75) and administrative dissolution under W. Va. Code § 31B-8-809. This is distinct from the Business Registration Certificate.

**"Articles of Organization"** means the Articles of Organization of the Company (Form LLD-1) filed with the West Virginia Secretary of State, as may be amended.

**"Business Registration Certificate"** means the business registration certificate obtained from the West Virginia State Tax Department (Form WV/BUS-APP), required before transacting business in West Virginia. One-time fee: \$30. This is a Tax Department requirement separate from the Secretary of State filing.

**"Capital Account"** means the account maintained for each Member reflecting initial and additional contributions, allocated net profits and losses, and distributions taken.

**"Capital Contribution"** means any contribution of money, property, services, or a promissory note made to the Company by a Member, as reflected in Exhibit 1.

**"Charging Order"** has the meaning set forth in W. Va. Code § 31B-5-504, which provides the exclusive remedy by which a judgment creditor may reach a Member's distributional interest. A charging order gives a creditor only a lien on distributions; it does not confer management rights or permit seizure of LLC property.

**"Distributional Interest"** means a Member's right to receive distributions from the Company under W. Va. Code § 31B-5-501. An assignment of a distributional interest transfers only economic rights; management and voting rights do not transfer without admission as a Member.

**"Member"** means a person admitted to the Company as a member in accordance with the Act and this Agreement.

**"Membership Interest"** means a Member's entire interest in the Company, including the distributional interest (right to receive distributions) and all management and voting rights.

**"Operating Agreement"** means this Operating Agreement as authorized by W. Va. Code § 31B-1-103, which states that an operating agreement "need not be in writing." This written Agreement is intended to constitute the complete and exclusive governance document of the Company, overriding all Chapter 31B defaults to the extent permitted by § 31B-1-103.

"Secretary of State" means the West Virginia Secretary of State, Business and Licensing Division, the filing authority for West Virginia limited liability companies.

## **ARTICLE III CAPITAL CONTRIBUTIONS**

### **3.01 Initial Capital Contributions.**

The sole Member's initial Capital Contribution to the Company is set forth in Exhibit 1 attached hereto.

### **3.02 Form of Contributions.**

Capital Contributions may be made in cash, property, services, or a promissory note. The agreed value of any non-cash contribution shall be noted in Exhibit 1.

### **3.03 Additional Capital Contributions.**

The sole Member may make additional Capital Contributions at any time and in any amount.

### **3.04 No Interest on Capital.**

No Member shall be entitled to interest on any Capital Contribution unless unanimously agreed in writing.

### **3.05 Capital Accounts.**

The Company shall maintain a separate Capital Account for each Member in accordance with Treasury Regulation § 1.704-1(b)(2)(iv) to the extent applicable.

### **3.06 No Right to Return of Contributions.**

No Member shall have any right to demand or receive the return of any Capital Contribution except as expressly provided in this Agreement or required by the Act.

## **ARTICLE IV ALLOCATIONS AND DISTRIBUTIONS**

### **4.01 Allocation of Profits and Losses.**

OVERRIDE OF W. VA. CODE § 31B-4-405 EQUAL-SHARE DEFAULT: W. Va. Code § 31B-4-405 provides that, absent a contrary operating agreement, pre-dissolution distributions must be made in EQUAL SHARES per member regardless of capital contributions. West Virginia is one of the few states that retains the original ULLCA equal-share rule (most states have shifted to pro-rata by contributions). This means two members — one contributing

\$200,000 and one contributing \$10,000— each receive exactly half of all distributions unless this Agreement says otherwise. This Agreement expressly overrides that default: net profits and losses shall be allocated in proportion to each Member's ownership percentage as set forth in Exhibit 1.

#### **4.02 Distributions.**

Distributions shall be made to the sole Member at such times and amounts as the sole Member determines, subject to the solvency limitations of Section 4.03.

#### **4.03 Limitations on Distributions.**

No distribution shall be made under W. Va. Code § 31B-4-406 if, after giving effect to the distribution: (a) the Company could not pay its debts as they become due in the ordinary course of business; or (b) the Company's total assets would be less than the sum of its total liabilities. Any Member receiving a distribution in violation of § 31B-4-406 may be liable to the Company under W. Va. Code § 31B-4-407.

#### **4.04 Withholding.**

The Company may withhold from any distribution any amount required by applicable federal or West Virginia tax law. Withheld amounts shall be treated as distributions to the affected Member.

## **ARTICLE V MANAGEMENT**

#### **5.01 Member-Managed; Sole Authority.**

The Company is a member-managed LLC. Under W. Va. Code § 31B-4-404, in a member-managed LLC, each member has equal rights in management and conduct of the Company's business. As sole Member, the sole Member has full, exclusive, and complete authority to manage, control, and make all decisions concerning the business and affairs of the Company.

#### **5.02 Agency Authority.**

In a member-managed West Virginia LLC, each member is an agent of the LLC for purposes of its business under W. Va. Code § 31B-3-301. The sole Member is authorized to execute contracts, agreements, deeds, mortgages, leases, and all other instruments on behalf of the Company.

#### **5.03 Limitation of Liability.**

Pursuant to W. Va. Code § 31B-3-303, the sole Member is not personally liable for the debts, obligations, or liabilities of the Company solely by reason of being a member. SB 6 (2022)

amended § 31B-3-303 to provide that failure to observe LLC formalities is NOT, by itself, a ground for imposing personal liability on a member or manager. However, the West Virginia Supreme Court of Appeals' standard from *Kubican v. The Tavern, LLC* — focusing on 'unity of interest and ownership' and fraud or injustice — may still apply to substantive abuse of the LLC form. A signed operating agreement, separate bank account, documented capital contributions, and consistent distribution practices remain the core evidence package for preserving the liability shield.

#### **5.04 Compensation.**

The sole Member shall not be entitled to compensation for managing the Company unless separately agreed in writing. The sole Member may be reimbursed for reasonable and documented expenses incurred on behalf of the Company.

#### **5.05 Books and Records.**

The Company shall maintain complete and accurate books and records at its principal office. Each Member's right to information and records is non-waivable under W. Va. Code § 31B-1-103.

#### **5.06 Annual Report and Business Registration Compliance.**

WEST VIRGINIA COMPLIANCE: The Company must file an Annual Report with the West Virginia Secretary of State each year between January 1 and June 30, with a \$25 filing fee. Late filing may result in penalties (approximately \$75) and administrative dissolution under W. Va. Code § 31B-8-809. Additionally, the Company must maintain a current Business Registration Certificate from the West Virginia State Tax Department (Form WV/BUS-APP, \$30 one-time fee).

#### **5.07 Fiscal Year.**

The fiscal year of the Company shall be the calendar year, unless the sole Member elects otherwise in writing.

## **ARTICLE VI FIDUCIARY DUTIES**

#### **6.01 Duty of Loyalty.**

The sole Member owes a duty of loyalty to the Company under W. Va. Code § 31B-4-409, including: (a) accounting for and holding as trustee any property or benefit derived from Company business without consent; (b) refraining from dealing with the Company as an adverse party; and (c) refraining from competing with the Company before dissolution without unanimous written consent. This duty may be defined by this Agreement but may not be eliminated (W. Va. Code § 31B-1-103).

## **6.02 Duty of Care.**

The sole Member shall act in good faith, in a manner reasonably believed to be in the best interests of the Company, with the care a person in a like position would reasonably exercise under similar circumstances, per W. Va. Code § 31B-4-409. This duty may not be unreasonably reduced by this Agreement.

## **6.03 Obligation of Good Faith and Fair Dealing.**

Each Member and the sole Member shall discharge all duties and exercise all rights consistent with the obligation of good faith and fair dealing under W. Va. Code § 31B-4-409. This obligation may not be eliminated by this Agreement.

## **6.04 Indemnification.**

The Company shall indemnify and hold harmless each Member from and against any claim, liability, cost, or expense (including reasonable attorneys' fees) arising from good-faith acts within the scope of authority conferred by this Agreement, as permitted by W. Va. Code § 31B-4-403. No indemnification for willful misconduct, knowing violation of law, or conduct in bad faith.

## **6.05 Non-Waivable Provisions (§ 31B-1-103).**

The following provisions of Chapter 31B cannot be eliminated or varied by this Operating Agreement: (a) the right of Members to inspect Company information and records; (b) the duty of loyalty (may be defined and safe-harbor categories established, but not eliminated); (c) the duty of care (may not be unreasonably reduced); (d) the obligation of good faith and fair dealing (standards may be set, but obligation cannot be eliminated); (e) the right to expel a member in certain statutory events; and (f) the requirement to wind up in specified dissolution cases.

# **ARTICLE VII TRANSFER OF DISTRIBUTIONAL INTEREST**

## **7.01 Nature of Distributional Interest.**

A Member's distributional interest is personal property under W. Va. Code § 31B-5-501. The distributional interest (right to receive distributions) may be transferred, but management rights and voting rights do not transfer with an assignment of the distributional interest alone.

## **7.02 Restriction on Transfer.**

The sole Member may transfer all or any portion of the Membership Interest without restriction. Any transferee who executes a joinder and assumes all obligations shall be admitted as the sole Member.

### **7.03 Charging Order — Exclusive Creditor Remedy.**

Pursuant to W. Va. Code § 31B-5-504, a charging order against a Member's distributional interest is the EXCLUSIVE remedy by which a judgment creditor may satisfy a judgment against a Member's interest in the Company. A creditor with a charging order receives only a lien on distributions when the LLC chooses to make them. The charging order does NOT: (a) give management or voting rights; (b) permit seizure of LLC property; or (c) make the creditor a Member.

### **7.04 Death or Incapacity of a Member.**

Upon death or legal incapacity of the sole Member, the distributional interest passes to the estate or named beneficiary. To maintain continuity of operations, the sole Member is encouraged to designate a successor in a separate written instrument.

## **ARTICLE VIII DISSOCIATION AND BUYOUT**

### **8.01 Events of Dissociation.**

A Member is dissociated from the Company upon any event listed in W. Va. Code § 31B-6-601, including: (a) the Member's express will to withdraw, delivered to the Company; (b) transfer of all distributional interest; (c) expulsion by unanimous consent of the other Members or under Section 8.05; (d) certain bankruptcy filings by or against the Member; (e) death or incapacity of the Member; or (f) judicial dissociation.

### **8.02 Power to Dissociate; Wrongful Dissociation.**

Under W. Va. Code § 31B-6-602, a Member may dissociate at any time by express will. Dissociation is 'wrongful' if it breaches this Operating Agreement or occurs before the expiration of a term company. Wrongful dissociation entitles the Company and remaining Members to damages.

### **8.03 Effect of Dissociation — Single Member.**

The sole Member's dissociation triggers dissolution of the Company under W. Va. Code § 31B-8-801 unless the sole Member has designated a successor and taken all steps necessary to continue operations.

## **ARTICLE IX DISSOLUTION AND WINDING UP**

### **9.01 Events Causing Dissolution.**

The Company shall be dissolved and its affairs wound up upon any of the following events under W. Va. Code § 31B-8-801:

- (a) Any event or circumstance specified in this Operating Agreement or the Articles of Organization as causing dissolution;
- (b) The unanimous written consent of the sole Member to dissolve;
- (c) Judicial dissolution by a West Virginia circuit court upon application by a Member;
- (d) Administrative dissolution by the West Virginia Secretary of State for failure to file the Annual Report or maintain a registered agent under W. Va. Code § 31B-8-809.

### **9.02 Continuation After Dissolution.**

Pursuant to W. Va. Code § 31B-8-802, dissolution does not terminate the Company's existence. The Company continues solely for the purpose of winding up its business under § 31B-8-803.

### **9.03 Winding Up.**

Upon dissolution, the Company shall be wound up by the sole Member, or upon application, by a person appointed by a West Virginia court. During winding up the Company shall: (a) collect all amounts owed; (b) pay and discharge all debts and obligations; (c) distribute remaining assets to Members in accordance with Capital Account balances and then ownership percentages, consistent with W. Va. Code § 31B-8-806.

### **9.04 Articles of Dissolution.**

Upon completion of winding up, the Company shall file Articles of Dissolution with the West Virginia Secretary of State to formally terminate the Company's existence.

## **ARTICLE X TAX MATTERS**

### **10.01 Federal Tax Classification.**

For federal income tax purposes, the Company shall be treated as:

- Disregarded entity (default for single-member LLC — income reported on owner's individual return; no West Virginia entity-level return required)
- C Corporation (elected via IRS Form 8832; subject to federal corporate tax and West Virginia corporate net income tax)
- S Corporation (requires IRS Form 8832 and Form 2553)

### **10.02 West Virginia Elective Pass-Through Entity Tax (PTET).**

West Virginia's elective Pass-Through Entity Tax (PTET), enacted by SB 151 (2022), has been available since tax year 2022. The PTET rate equals the top individual marginal rate (6.5% for 2022; 5.12% for 2023 and beyond, subject to future rate changes). For calendar-year LLCs taxed as partnerships or S-corporations, the PTET election must generally be made by March 15 of the following year. Members receive a corresponding credit on their West Virginia personal income tax (Form IT-140). NOTE: Single-member disregarded entity LLCs are not eligible for the PTET election. If the Company elects PTET, this Agreement shall govern: (a) who has authority to make or revoke the election; (b) how the entity-level tax burden is allocated among Members; and (c) how related credits are distributed.

### **10.03 PTET Election Authority.**

Authority to make, maintain, or revoke the West Virginia PTET election is vested in the sole Member.

### **10.04 West Virginia Business Franchise Tax.**

West Virginia's Business Franchise Tax has been REPEALED effective for tax years beginning on or after January 1, 2015 (W. Va. Code § 11-23-6). No franchise tax applies to West Virginia LLCs for current tax years.

### **10.05 Employer Identification Number.**

Company EIN:

### **10.06 Tax Matters Representative.**

The Tax Matters Representative of the Company is:

Name:

### **10.07 Tax Elections.**

All federal and state tax elections materially affecting the Company's tax treatment shall be made by the sole Member and documented in writing.

## **ARTICLE XI MISCELLANEOUS**

### **11.01 Amendments.**

**OVERRIDE OF § 31B-4-404(c) UNANIMOUS CONSENT FOR AMENDMENTS:** Under W. Va. Code § 31B-4-404(c), amending this Operating Agreement requires unanimous member consent by default. This Agreement overrides that default: amendments require approval by Members holding at least sixty-six and two-thirds percent (66.67%) of total ownership interests

(as the sole Member). All amendments shall be in writing, signed by the requisite Members, and attached to this Agreement.

### **11.02 Governing Law.**

This Operating Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia, including Chapter 31B of the West Virginia Code (the Act), without regard to conflict of law principles.

### **11.03 Protected Series — SB 670 (2026).**

WEST VIRGINIA 2026 LEGISLATION: SB 670 (2026) adopted the Uniform Protected Series Act as new Article 14 of Chapter 31B (W. Va. Code § 31B-14-101 et seq.), effective June 12, 2026. This authorizes West Virginia LLCs to establish protected series with internal liability shields between series and the parent LLC. If the Company intends to establish protected series under Article 14 after June 12, 2026, this Operating Agreement must be amended to include provisions on: (a) establishment and termination of each series; (b) asset and member association rules; (c) series-level governance; (d) inter-series transactions; and (e) naming and reporting requirements. Failure to align the parent LLC's operating agreement with the protected series documentation will collapse the inter-series liability shields.

### **11.04 Dispute Resolution.**

The parties agree to attempt in good faith to resolve any dispute through negotiation before formal proceedings. If negotiation fails within thirty (30) days of written notice:

- Mediation before a mutually agreed mediator in the county of the Company's principal office, before proceeding to litigation.
- Binding arbitration in the county of the Company's principal office under the rules of the American Arbitration Association.
- West Virginia circuit courts (no mandatory mediation or arbitration); venue: county of the Company's principal office.

### **11.05 Entire Agreement.**

This Operating Agreement, together with the Articles of Organization and all exhibits and amendments hereto, constitutes the entire agreement of the Members with respect to the Company. W. Va. Code § 31B-1-103 provides that an operating agreement 'need not be in writing.' This written Agreement is the complete and authoritative governance document and supersedes all prior oral, implied, written, or electronic understandings among the Members.

### **11.06 Severability.**

If any provision of this Operating Agreement is held invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.

### **11.07 No Third-Party Beneficiaries.**

This Agreement is for the exclusive benefit of the parties hereto and their permitted successors and assigns, except as otherwise required by the Act.

### **11.08 Waiver.**

No failure or delay in exercising any right under this Agreement shall operate as a waiver thereof.

### **11.09 Counterparts and Electronic Signatures.**

This Agreement may be executed in counterparts, each constituting an original. Electronic signatures are valid under applicable law and shall be deemed original signatures for all purposes.

### **11.10 Notices.**

All notices shall be in writing and deemed given when: (a) delivered personally; (b) sent by overnight courier with tracking; or (c) sent by email with confirmation of receipt, to the address on file with the Company.

### **11.11 Authority.**

Each person executing this Agreement represents that the person has full power and authority to execute and deliver this Agreement and that execution does not violate any other agreement to which the person is a party.

## CERTIFICATION OF SOLE MEMBER

The undersigned, being the sole Member of the Company, hereby certifies that: (1) this Operating Agreement was adopted effective as of the date in Section 1.07; (2) Exhibit 1 accurately reflects the sole Member's Capital Contribution; (3) the Articles of Organization (Form LLD-1) have been accepted by the West Virginia Secretary of State; (4) the Company maintains a current Business Registration Certificate from the West Virginia State Tax Department; and (5) the sole Member has full authority to execute this Agreement.

\_\_\_\_\_  
Signature of Sole Member

Printed Name:

Date:

Capacity:

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### EXHIBIT 1 — INITIAL CAPITAL CONTRIBUTION

The following sets forth the sole Member's initial Capital Contribution to the Company.

Member Name	Address	Contribution Amount	Form of Contribution

(Attach additional sheet if needed)

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### EXHIBIT 2 — BANK RESOLUTION

RESOLVED, that the Company is authorized to open and maintain bank and financial accounts, and that the following individual(s) are authorized to sign checks, make deposits, and otherwise transact business on behalf of the Company:

Authorized Signatory 1:

Title:

Authorized Signatory 2:

Title:

FURTHER RESOLVED, that the Company's operating account shall be maintained at:

Bank Name:

Branch Address:

Sole Member Signature

Date:

## LEGAL DISCLAIMER

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This West Virginia LLC Operating Agreement template is provided by Boost Suite for informational and general reference purposes only. It does not constitute legal advice and does not create an attorney-client relationship. This template is based on the West Virginia Uniform Limited Liability Company Act, Chapter 31B of the West Virginia Code, including SB 6 (2022), SB 151 (2022), and SB 670 (2026, effective June 12, 2026). Laws may change after publication. If your LLC intends to use protected series under the new Uniform Protected Series Act (Article 14, § 31B-14-101 et seq.), consult a licensed West Virginia attorney for additional provisions. The West Virginia State Bar Lawyer Referral Service (wvbar.org) can connect you with a licensed West Virginia business attorney. Boost Suite makes no representation that this template is suitable for your specific circumstances. Use is at your own risk.

### **Your West Virginia LLC Resources:**

→ [boostsuite.com/llc-operating-agreement/west-virginia/](https://boostsuite.com/llc-operating-agreement/west-virginia/)

→ [boostsuite.com/how-to-start-an-llc/west-virginia/](https://boostsuite.com/how-to-start-an-llc/west-virginia/)

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