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LLC FORMATION CHECKLIST

Please fill out a separate checklist for each company you wish to form

A significant amount of explanatory material follows in this first section, prior to the questionnaire. It is supplied in anticipation of clients' most frequently asked questions. If you wish to skip this material, you can go directly to the LLC questions beginning around page 7.

General Information

Texas and Nevada have advantageous LLC laws and are our preferred states for entity formation. For more information on our suggestions for asset protection generally, see our web article *Asset Protection in Texas*.

The great majority of new companies that we form are LLCs, particularly the new series LLC (suitable for multiple assets), since we no longer recommend corporations for most of our clients' investments. See our web article *LLCs in Texas – The Series LLC*.

The first step in the LLC formation process is to complete this LLC Formation Checklist. If the Checklist is more than a few days old, we ask that you request a new LLC Checklist with current fees, costs, and options, all of which are subject to change without notice.

If you are not able to complete the Checklist because you are uncertain about the information requested, or would like more information before deciding on entity formation or an asset protection plan, then a paid consultation would likely be the appropriate first step.

If you are doing a conversion of an existing traditional Texas LLC to a series LLC, please complete as much of this Checklist as may be applicable to your circumstances. We will also need copies of the formation documents of your current traditional LLC documentation.

Fees are specified below. We strive for 100% transparency on fees. A comprehensive listing of our services and fees can be found at: <https://www.lonestarlandlaw.com/Fees.html>

When you complete and return this Checklist, we would be happy to generate a no-obligation itemized statement for you that will reflect total fees and costs.

LLC formation in Texas is currently subject to significant delays at the Secretary of State's office. If you need an immediate LLC, we suggest you consider Nevada, a good alternative.

LLC Formation Generally (Texas and Nevada)

We are available to form both Texas and Nevada limited liability companies, both traditional LLCs and series LLCs. Series limited liability companies are a focus of ours. Many of the new companies we form for investors are series LLCs because of simplicity, economy, and flexibility, as well as the ability to hold assets in separate series. In most cases, traditional LLCs are suitable for use as a management company (to deal directly with the public) or SPE (single purpose entity).

LLC FORMATION AND AMENDMENT: FEES AND COSTS

➤ LLC (TX or NV) – Traditional LLC	\$1,250 plus \$325 ff plus costs
➤ LLC (TX or NV) – Series LLC	\$2,150 plus \$325 ff plus costs
Optional Inclusion of Cert. of Registered Series	\$350 plus \$300 ff
➤ LLC (TX or NV) – with Anonymity	\$3,500 Traditional, \$4,500 Series
➤ Limited Partnership (Texas) –	\$2,500 to \$3,500 plus ff and costs
➤ “Hub-Sub Structure” (with Anonymity) –	\$7,995 plus filing fees and costs
➤ Re-Doc of Existing Traditional LLC (Assumes No Amendment Filing Required)	
Less than 3 years old	\$750 excluding \$175 ff plus costs
3 to 5 years old	\$850 excluding \$175 ff plus costs
More than 5 years old	\$950 excluding \$175 ff plus costs
➤ Re-Doc AND Amendment of Traditional LLC (Filing Required without Conversion to Series) (Example: Conversion to Manager-Managed)	
Less than 3 years old	\$850 excluding \$175 ff plus costs
3 to 5 years old	\$950 excluding \$175 ff plus costs
More than 5 years old	\$1,050 excluding \$175 ff plus costs
➤ Re-Doc AND Amendment Converting Traditional LLC to Series LLC	
Less than 3 years old	\$2,150 excluding \$175 ff plus costs
3 to 5 years old	\$2,250 excluding \$175 ff plus costs
More than 5 years old	\$2,350 excluding \$175 ff plus costs
➤ Re-Doc of Existing Series LLC (Assumes No Amendment Filing Required)	
Less than 3 years old	\$1,450 excluding \$175 ff plus costs
3 to 5 years old	\$1,550 excluding \$175 ff plus costs
More than 5 years old	\$1,650 excluding \$175 ff plus costs

- Re-Doc AND Amendment of Existing Series LLC
(Amendment Filing Required. Example: Conversion to Manager-Managed)

Less than 3 years old	\$1,550 excluding \$175 ff plus costs
3 to 5 years old	\$1,650 excluding \$175 ff plus costs
More than 5 years old	\$1,750 excluding \$175 ff plus costs

- Existing Series LLC – Addition of Certificate of Registered Series plus New Company Agreement (No COF Amendment and No Other Re-Doc)

	\$1,250 excluding \$300 ff
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Note: Conversion of an LLC from Member-Managed to Manager-Managed requires the filing of an amendment. Filing a Certificate of Registered Series does not require an amendment to the Certificate of Formation.

List of Miscellaneous Costs and Filing Fees:

Texas Secretary of State Filing Fee – New LLC (with Expedited Handling)	\$325.00
Series LLCs – Certificate of Registered Series	\$300.00
Texas Secretary of State Filing Fee – Amendment to LLC (with Expedited Handling)	\$175.00
Nevada Secretary of State Filing Fee – New LLC (includes business license first year)	\$425.00
Company Book (red/burgundy hardbound) Seal, and Membership Certificates – Our Cost (Note: Company book is required)	\$155.00
Upgraded Company Book (leather) Seal, and Membership Certificates – Our Cost	\$255.00
Shipping of Company Book with LLC Documents (UPS/FedEx Ground)	\$30.00

Fees and costs are subject to change without notice. The final dollar amount is contained in the itemized statement we will generate in response to the client’s completed LLC Checklist. References to “anonymity” mean single-entity, single-layer anonymity unless clearly specified otherwise. Layering of entities may be necessary to maximize anonymity.

Company Books, Seal, and Membership Certificates. Company books with seal and membership certificates are part of the package that we pass along to you at our approximate cost. We insert our own sophisticated documentation into these books (instructions, minutes, company agreement, etc.) designed to maximize asset protection. We are confident you will be pleased with the end product. As a matter of professionalism we do not deliver LLC documents without a company book. This may not be deleted.

IRS EIN. This is not included but is easily obtained at irs.gov. Takes 5 minutes.

Re-Do of Documents upon Rejection. If the client asks us to proceed with ordering the company book and preparing LLC documents before approval is obtained, that's fine. We're ready to do it, but this is at the client's risk in the event the initial filing is rejected for some reason by the Secretary of State (although this rarely happens). A replacement LLC book and membership certificates will have to be ordered from the printing company (\$155 for the burgundy hardbound version plus \$30 shipping). Our fees are \$250 to re-do all of the LLC documents in order to prepare a second filing.

Series LLCs - Registered Series. The Texas Business Organizations Code (BOC Sec. 101 et seq.) was amended effective June 1, 2022 to provide for a higher level of series called "registered series." To take advantage of this new category, one will need to file a certificate of registered series with the Secretary of State and pay a filing fee of \$300. Fees are \$450. Does not include amendments to the company agreement or other LLC documents (these would fall under the category of our "re-doc" options).

Anonymity

Anonymity Companies in Texas and Nevada. We offer anonymity company formation in Texas and Nevada utilizing our own proprietary system of an "anonymity trust" (our term) in order to pursue anonymity in the Certificate of Formation. This choice is clearly not for everyone, but many clients find anonymity useful. Our method includes naming this firm as organizer and registered agent; a trust is formed to act as sole manager with a POB address. Both the Texas and Nevada Secretaries of State accept filings in this form. Legal fees are as stated above. Registered agent services are included for the first year for Texas entities in this category. EIN not included but is easily obtained by the client at irs.gov. Bank account not included. Trust Agreement is included. Deeds of properties into the Trust are not included. *Note: We do not accept trust agreements or other relevant documents that were prepared by others for incorporation into our anonymity structure. These trusts must be drafted a certain way if they are to be used with an LLC. No exceptions.*

New Federal Law and Regulations Impacting Anonymity. The term "anonymity" as used in this Checklist means single-entity and single-layer in terms of structure. Anonymity techniques without layering of entities is becoming less effective due to recent federal law changes (the Corporate Transparency Act and FinCEN beneficial interest regulations beginning in 2022). These are designed to promote transparency in LLC formation and stop money laundering by bad actors in the real estate industry. The result is that anonymity measures will not be maximized unless the client is willing to do entity layering (i.e., form additional entities to create a layered structure such as our hub-sub structure). Anonymity with single layering by a single entity may not be fully achievable as was previously the case. Layering with other entities will now be necessary to get the most out of any anonymity structure, which adds considerably to

the expense. *Some anonymity – but not maximum anonymity - on a budget is no longer realistic.* You can thank government regulation for this.

Re-Documenting or Converting an Existing LLC

Limitations – No Assistance with DIY. Note please that we do not get involved with DIY LLC formation projects. Also, we are committed to professionally handling the entire project. We do not handle only parts of it.

Re-doc” of Existing or Traditional LLCs. There are two pathways here: one that involves the amending of the original Certificate of Formation and one that does not. If the previously filed Certificate of Formation needs to be amended (we will advise on that), then fees higher Note: a proper company book with issued membership certificates is a required part of this, as a matter of professionalism, We do not send out loose company documents. The book is offered at our cost.

Conversion of a Traditional LLC to a Series LLC. The conversion process involves filing a Certificate of Amendment and replacing ALL documentation including the company agreement. Other steps may need to be taken depending on the individual case, including (for example) bringing the company up to date with annual meetings from the past through the current year. *Note that these conversions are more work than forming a new series LLC, not less.* Expect fees to reflect this. Fees for conversion do not include deeds of property into individual series. This is a necessary second step.

Conversion from Member-Managed to Manager-Managed. Most clients who initially formed their LLCs as member-managed come to regret it. It’s a common mistake made by DIYers. The reality in business (with lenders, title companies, and others) is that LLCs usually need a manager to sign important documents. Some lenders will even require that an LLC be amended and converted to manager-managed. This involves the filing of a Certificate of Amendment and (at minimum) a totally new company agreement as well as a current members’ meeting ratifying the conversion.

If you choose any of the above re-doc or conversion options, we will need copies of your Certificate of Formation (the document you filed to establish the LLC) as well as the Certificate of Filing (the approval issued by the Secretary of State) which contains the filing date and file number.

Turn-Around Time at the Texas Secretary of State. Processing time is currently very slow and has been since the start of the pandemic. It has not recovered. A recent email from the Secretary of State indicated that even with payment of the expedited filing fee (which we always pay), turnaround time is 10 to 12 days. If your need for an LLC is immediate, we suggest Nevada which is an excellent alternative.

Separate Checklist. We have a separate Checklist for LLC amendments and re-docs. Inquire.

Consultation before Proceeding

Do you need a consultation before taking the next step? If you are undecided about which action to take, need to discuss your legal options, or require legal advice and information before you can proceed, then a paid consultation with our attorney is your best first step. Initial consultations may now be handled online, supplemented by an optional phone call after legal issues are first discussed by email. No appointment is needed. We can usually begin within one or two business days. The online process has

proven very popular with clients, because the consultation is unrushed and the client has a written email record of the legal advice given.

Consultation Fees – Entity Structuring. Fees for an entity-structuring consultation are \$550 per hour online. This approach applies to clients who want to explore different options for developing an asset protection structure without pending or threatened litigation. (Those dealing with litigation or a judgment should consider an asset protection review, a different option).

Transmission of Your Supporting and Background Documentation

After retaining us (not before please, since we will not yet have set up a file), we will need copies of your supporting documents. These can be scanned/mailed or faxed to us at (832) 201-5327. We ask that you please avoid JPEG, or page-by-page screenshots of legal documents, since these can be cumbersome to download. Generally, we prefer copies of recorded documents (for example, a copy of a warranty deed with the clerk's file number stamped at the top). *Please do not mail us your original documents.* And, if you would, include only relevant documents. "Data dumps" can significantly slow down the process and may result in higher fees.

Payment

Advance payment is required. Payment options include credit/debit and Paypal, as well as wire transfer and direct deposit to Wells Fargo. No checks are accepted. Specific information (including available discounts, if any) is available on our website payment page: https://www.lonestarlandlaw.com/Make_payment.html Files go into our queue in the order in which payment is received from the client. We do not open a file on your case or save attachments until payment is made.

More Complex Cases. The above fees will apply to 90% of cases. However, if there are many members, a significant number of major events need to be ratified by members' meetings, the LLC was formed many years ago, there is complicating litigation, and/or additional custom documentation is required – any of these factors may result in a higher fee than quoted above. We reserve the right to adjust fees upward for cases that are more complex or custom-driven than average.

Posted Fees are Guidelines. Posted fees should be considered guidelines for documentation of the type we usually prepare. The inclusion of numerous custom or creative provisions will increase the fee. Fees for very unique, custom, and creative documents can be expected to be substantially more expensive. Inquire.

Itemized Statement. If you are uncertain as to the total of fees and costs for any of the above options, or have other add-on items that you would like to include in the formation process (there are several available), we would be glad to prepare a no-obligation itemized statement for you in advance of your payment. Please send us a completed LLC Formation Checklist and we can work from that to create an invoice.

Additional Fees & Polices Relating to Company Formation

Deeding Properties into an LLC or Trust. Specially crafted deeds for this purpose are \$450 excluding recording fees so long as there are no additional complex or custom provisions included. More complex

deeds are \$550 and up. If three or more properties are involved at the same time, the fee drops to \$350 each. Add \$75 per document if the legal description is by metes and bounds (rather than simple lot and block) which will need to be keyed in by us, since this is quite time consuming. Clients usually do their own recording or signed and notarized original deeds in the county clerk's real property records. Note that we usually transfer deeds into a new LLC as a separate second step, after LLC formation.

Management and Consulting Contracts. These facilitate capital flow between a client's companies by providing a convenient label for inter-company transfers (consulting fees in one direction, management fees in the other). Strongly recommended for the two-company structure. Add \$175 per agreement for a total of \$350.

Assumed Name Certificates (DBAs). Signing and filing of Assumed Name Certificates under our firm name is not included, since this may expose us to additional liability (we then may be named as a defendant in any lawsuit against the entity) but may be available for an additional fee. For the most part, however, our clients file their own DBAs with their local county clerk. This is not difficult. It is really clerical and not legal work. See our web article on *Assumed Names in Texas*.

Company Books. The company books we supply are heavy-duty commercial grade minute books that include a company seal and printed membership certificates. The usual company book is red/black hardbound, purchased from a Houston vendor, and very nice – much nicer than the low-cost vinyl versions one often sees. We offer no inexpensive vinyl books. The alternative is a premium company book that is burgundy/black leather and is extremely nice (display quality) but obviously more expensive (We order it out of New York). Note that our vendors may occasionally run out of stock on any particular type of company book, or color of leather, and there are a number of styles and variations out there, so we reserve the right to substitute another type of equal or greater value. Books are passed along to the client at our approximate cost. Sorry, for reasons of professionalism, we do not supply company documents without a proper company book to contain them. No exceptions.

Custom Drafting of LLC Documents. LLC documents are appropriately customized to suit the client and the situation but nonetheless follow a certain pattern and format. Asking us to prepare a company agreement, for example, is not an opportunity for the client to redesign or reinvent the way we generally draw up such documents. If the client desires a significant re-write that significantly departs from our usual format, then a higher custom document preparation fee would apply. Custom drafting services are most definitely available, but not at the shelf price. Custom company agreements begin at \$1,500.

No Tax, Accounting, or Book Keeping Advice. Our firm does not give tax, book keeping, or accounting advice at all. We require all of our clients to have a qualified CPA as part of their professional team. Our focus is on legal liability and keeping the client out of the courthouse; the CPA focuses on keeping the client out of trouble with the IRS. These two approaches function in a complementary fashion.

LLC Bank Accounts and Series LLCs. Banks have differing policies and levels of familiarity with respect to series LLCs. *We make no guarantees about what your bank's policies may be on the subject of series LLCs or about the willingness of your bank either to open an account or make a loan to the LLC or any of its series.* We are absolutely not in the business of guaranteeing what banks will do.

Note on the Availability of Loans to Real Estate Investors. *This firm does not make any assurances that you or your entity will be able to get a loan from any particular lender.* It is occasionally necessary for an investor to “shop” lenders (just as he or she might need to shop title companies, insurers, and other providers) in order to determine which of these is most friendly to the investor’s structure and business model. We make no representations or warranties as to a client’s ability to borrow money, get a loan, or obtain a line of credit, whether individually or in the name of an LLC or a series of an LLC. Lawyers never make any such assurances or guarantees.

Proprietary LLC Documents. All our LLC documents are proprietary and licensed to the client for specific permitted use. They are never distributed for resale or reuse. *We reserve the right to decline to do business or file formation paperwork that lists a competing asset protection law firm as registered agent or otherwise threatens the proprietary nature of our documents.*

No Returns. Our LLC documents are not returnable or exchangeable because of the unique and valuable intellectual property involved in our documentation. We are serious about this. Our firm has done this work for many years and developed extensive asset protection devices and provisions that are simply not available anywhere else at any price. *No exceptions.*

Client Illegality. We do not condone nor will we assist any illegal, unethical, or wrongful activity by a client. This seldom occurs, but if it does, then we may immediately cease delivering all services without refund and resign as both the client’s attorney and registered agent. We will not risk being charged as an accessory or co-conspirator in a client’s wrongdoing.

Registered Agent Services (Texas)

Registered Agent Services. Clients may act as their own registered agent, or our firm can act in this capacity for an annual fee of \$250 for the year to come. Annual meeting minutes, along with updates to the company agreement as they may occur, are available without additional charge to our registered agent clients. Acceptable choices for registered agent are the client; our law firm; or the client’s CPA. ***We do not accept clients who wish to use a different law firm or a commercial registered agent service as their registered agent.***

General Terms of Our R/A Service. Registered agent services are limited in scope to (1) accepting service of process if the Company is sued; (2) forwarding official mail (not mass or junk mailings) from the Secretary of State and Texas Comptroller; and (3) formal notice and demand letters from attorneys or claimants. *In other words, a registered agent is not a general mail forwarder.* Examples of items *not* forwarded by the registered agent are bank statements, personal correspondence, HOA correspondence, utility bills, credit card solicitations, magazines, and junk mail generally - all of these senders should be given the LLC’s postal box address. Mass-mailed reminders to pay taxes are not forwarded even though they may come from the Comptroller (We all know that we need to file a tax return, even if no taxes are due). Please do *not* list our law firm’s address as your official address with the IRS. Our firm is granted permission, if necessary, to open correspondence to determine its nature (sometimes it is difficult to tell from the envelope). Items are forwarded to the client by email or by U.S. first class mail unless advance

arrangements and fees are paid for overnight delivery, UPS, Fed Ex, or overseas delivery. The first year's R/A service is included with anonymity and shelf companies.

Maintain an office address or postal box for general business mail. Do not rely on the registered agent for this. We will need to include your LLC's business mailing address in the Certificate of Formation. If you are acting as your own registered agent, this may be the same as your registered address.

R/A Fees Are Not a Retainer for Legal Services. The registered agent fee is not a retainer for legal services (i.e., legal services are not included) although we remain ready to be of service to you as circumstances may require. For example, a certified demand letter arrives from a law firm. The client asks us to open it and we do. We explain that it is a Deceptive Trade Practices Act notice letter that makes allegations of fraud or misrepresentation - and that the client needs to respond within 60 days or risk a lawsuit potentially involving treble damages plus attorney's fees. That is the extent of our obligation. Beyond that, the client is free to hire this firm or any other firm to represent them in that case.

R/A Services Do Not Include Signing Annual Reports or Filing Tax Returns. A registered agent is not authorized to act on behalf of the company in the execution of documents. This usually requires a manager. So signing annual LLC filings or tax returns or any other document is not included. We do not file annual state tax forms as part serving as registered agent. Please engage a competent CPA to handle your tax matters.

Our R/A Services Are For State-Level Services Only. Registered agent services are Texas state-level only (i.e., there is no such thing as a registered agent at the federal level). While we will forward any official notice and demand letters, including certified IRS mail, our services do not interfacing with the IRS or any other federal agencies. In particular, please do not list our firm's address as your official address with the IRS. Also, registered agent services do not include signing county or state-level assumed name certificates for the client - although this service may be available for an extra fee.

Keep Contact Information Current. If we are acting as registered agent, it is essential that the client keep us up-to-date concerning contact information, especially email. If mail to the Company or client is returned by the U.S. Post Office "not deliverable as addressed," and the file does not reflect any other way to get in touch with the client, we are permitted to resign as registered agent.

CHECKLIST QUESTIONS – LLC FORMATION

1. State of formation. Which state are you using to form this new company? We work in Texas and Nevada, considered to be two of the top four asset protection states (the others being Delaware and Wyoming).

_____ Texas _____ Nevada

2. Traditional vs. Series LLC. What type of LLC do you wish to form?

_____ Series _____ Traditional

3. Name of LLC. What name have you chosen for the company? Please do not use all caps here unless you actually want the official name of the company to be in all caps. In other words, we will use the name *exactly* as you write it in the space below.

We are talking here about the official name of the LLC, not an assumed name or DBA you might acquire later.

Please double check the way you have written the above company name. It will be used in filing documents *exactly* as you have written it above, including capitalizations, spacing, and commas. Like a screenshot.

Unfortunately, most popular, easy names are taken, so you may need to be creative – which isn’t a problem from an asset protection point of view since it is always possible to operate under an assumed name. So if your desired LLC name is unavailable, it is perfectly OK to get a random name (nothing special) for the LLC (e.g., “ABC LLC”) and then afterward personalize the company with one or more assumed name certificates (DBAs) filed either with the Secretary of State or with one of Texas’ county clerks. This may involve the extra step of mailing in an assumed name application or making a trip to the county clerk’s local office to get your DBA, but it is not a problem at all. Suggest reading our web article on *Assumed Names in Texas*.

Note that a comma between the company name and “LLC” is not required. Many assume it is.

4. Name Clearance for Texas

Determining Name Availability. There are three ways to see if a proposed name is available: (1) calling the Texas Secretary of State at (512) 463-5555 and inquire about name availability – this can involve a long wait time on hold; (2) contact the S of S by email at corpinfo@sos.texas.gov; or (3) go to SOS Direct at <https://www.sos.state.tx.us/corp> and run a name search. This requires using a credit card (\$1 per search).

Standard for Determining Name Availability. The S of S has relaxed its name requirements in recent years. It used to be that a proposed name cannot be the same as or deceptively similar to an existing LLC name. This was fairly strict. Now a proposed name must only be reasonably distinguishable, which is a looser standard. So names are now easier to get.

Please do not file a name reservation. If you do, the Secretary of State will, for a period of 120 days, accept filings only from that specific person. So we would not be able to file your certificate of formation or otherwise take any action on your LLC.

Note on “Letters of Consent.” You may be told by the S of S clerk on the phone that you’ll need a letter of consent to use a particular name you want. You can forget about that. As a practical matter, no one ever provides such letters, so you will need to think of another name.

Note on Necessary Re-Filings because of Name. If re-filing is necessary because of name unavailability it will be at the client’s expense. *All risk of name selection is on the client.*

Mistaken Approval on the Phone. Sometimes one is told by a clerk that a name is OK on the phone and the formation paperwork is later rejected. Clerks make mistakes (although rarely). The problem is that now a new company book with engraved membership certificates will need to be ordered (book cost plus \$20 shipping). If you’re willing to wait for the whole process to work its way through before ordering the company book then you must expressly instruct us to that effect (check the appropriate box above). In no case will this firm absorb any client costs, including the cost of re-ordering a company book, should that become necessary. But if you’re in a rush, you may want to take that risk. Under the looser name standard applicable in Texas today, it is probably a very small risk.

5. Ordering the Company Book, Seal, and Membership Certificates

Please choose one:

_____ Yes, I’ve called, emailed, or checked at SOS Direct and the name appears to be available. I’m relying on this. Go ahead and order the company book from the printer now. I understand if for some reason our name is rejected by the S of S, I will have to pay for a replacement book (\$150 for the burgundy hardbound version plus \$20 shipping) as well as a \$250 fee to us to re-do all of the LLC documents.

_____ Yes, I’ve called and I was told that the name is available. However, I’m in no rush. Wait to order the company book from the printer until we receive emailed approval of the LLC from the Secretary of State’s office. If you choose this option, the process will be significantly slowed. Instead of LLC formation and company book production running simultaneously, they will be sequential (back-to-back), increasing total project time.

_____ No, I haven’t called or emailed the Secretary of State yet. Please do not process this Checklist or take any other action except for preparing and sending me an itemized invoice.

6. Members of the Company. Who are going to be all of the initial members of the Company and what are their respective percentage interests? These may not be minors unless represented by a trustee or guardian.

<u>NAME</u>	<u>ADDRESS</u>	<u>PERCENTAGE INTEREST</u>
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1)

2)

3)

4)

Please include the mailing address of each member. This *can* be a postal box, inside or outside of Texas. If any members are going to be an existing entity such as an LLC or a corporation, what is the name of the person who will be signing for that entity and what is their title?

7. Managers. Who shall we list on the formation documents (i.e., the Certificate of Formation or “COF”) as being the initial manager(s) or co-managers of the company? *Note:* We prefer not to name spouses in this section at all, even if the spouse is going to be a co-manager (reason: it needlessly makes them a potential target if the LLC is sued). You can still have additional managers even if they’re not listed in the COF. They will be named and recognized at the First Meeting of Members. But as a general preference, I prefer that these filings not reveal more private information than is absolutely necessary.

NAME AND MAILING ADDRESS OF EACH INITIAL MANAGER TO BE LISTED ON THE COF

	<u>NAME</u>	<u>ADDRESS</u>
1)		
2)		
3)		
4)		

We generally recommend using a POB or an office address rather than the home address here, just for general confidentiality reasons. Do *not* use the same address as the registered agent you are naming unless you actually have a physical office on the same premises.

7A. For Series Companies Only: Most of the time (99% in the case of our clients) individual series will have the same membership and managers as the company at large. However, the statute permits variability on this. In your case, will the members of any particular series (e.g., Series A or Series B) have different members or percentage membership from the company at large? If so, please specify, and note that legal fees increase substantially because of the extra documentation. If not, disregard this question.

<i>SERIES (E.G., A, B, ETC.)</i>	<i>NAME <u>AND</u> ADDRESS</i>	<i>PERCENTAGE INTEREST</i>
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8. Principal Office of the Company. What will be the principal official office of the business?

This may be a POB. This is where ordinary business correspondence will be directed. This may not be the registered agent unless you yourself are the registered agent at this address. If this firm is listed as your registered agent, you may *not* list our address as your company's principal office since a business correspondence address is different from a registered agent address (which has a specialized purpose – receiving service of lawsuits). Also, this principal office will be listed on the Certificate of Formation as the company's initial mailing address. Again, this principal office address may be a POB.

9. Registered Agent for Texas LLCs. Who will be the registered agent and what will be the registered address?

This is the address where papers will be served if the company is sued or if formal legal notice is given. It should *not* be used for ordinary business correspondence unless you yourself are the registered agent at this address. Also, note that the R/A address will be public record. Choices:

_____ We will serve as our own registered agent:

One Name: _____

Address: _____

Note: the address for the registered agent must be a physical street address (not POB, PMB, UNIT X – 1200, or the like, or the S of S will likely reject the filing – they sometimes Google such addresses to check them).

_____ We would like the attorney to serve as registered agent for this Texas LLC (add \$250 annually). The registered address will be 330 Rayford Rd., Suite 401, Spring, TX 77386. Note that the R/A is designated to receive only lawsuits and formal legal notices. Routine correspondence including bank statements and junk mail are not forwarded.

_____ Our CPA: _____

Our firm does not accept clients who wish to use another law firm or a commercial registered agent service as their registered agent. Sorry, no exceptions.

10. Registered Agent for Nevada LLCs. Skip this question if you are forming a Texas LLC.

There are many choices for a Nevada registered agent. We suggest:

UPS STORE #97
Attn: Barbara Stoll-Frank
1350 E. Flamingo Rd. Suite 13B
Las Vegas, NV 89119
Tel.: (702) 732-0024
Email: store0097@theupsstore.com

\$99 per year

If you're forming a NV LLC, please deal with your Nevada registered agent directly after we make the initial contact, rather than going through this office. We are not affiliated with them in any way except to use them as registered agent, and they have been quite satisfactory in this capacity. After the LLC is formed, you should contact them immediately to let them know that they have been designated as your registered agent and formalize your relationship by paying any necessary fees.

11. Company Purpose. What is the general purpose of the company? It's very helpful for us to know what your intended use of the entity is.

_____ operating a single business – an “SPE” or single purpose entity (e.g., a restaurant, a fourplex, retail outlet, etc.).

_____ passively owning and holding multiple investment properties (e.g., a “holding company” for rent houses and the like).

_____ managing multiple investment properties (a “management company”) and actively signing leases, contracts, etc. and otherwise dealing with the public. This company is the one most likely to be sued and should therefore remain largely a shell in order to avoid losses due to litigation.

_____ owning a combination of businesses and investment properties.

_____ other: _____

12. Monetary Contributions. What are the monetary contributions of each member to the company?

It is optional (i.e., not legally necessary) to state this specifically. However, some clients want this number reflected in the organizational minutes. If you do, let us know below. Otherwise we will make a general statement about the initial members making a contribution to formation fees and expenses and leave it at that.

NAME

CONTRIBUTION

Services, formation costs, and \$_____ [optional]

Services, formation costs, and \$_____ [optional]

Services, formation costs, and \$_____ [optional]

13. Loans to the LLC. Will you be making any loans to the LLC? New companies are often funded by a combination of equity (cash) and debt (loans by the members to the company). If you have special requirements in this area, what are they?

_____ Not applicable to us. We are not making any loans to the company at this time.

_____ Yes, we will be both injecting capital and making one or more loans to the Company. We would like this reflected in the organizational minutes as follows:

_____ We _____ do _____ do not need a promissory note prepared. If yes, the terms of the note are as follows: _____

14. For Anonymity Companies Only. Will this be an anonymity company? If not, skip this question. “Anonymity Company” refers to our proprietary anonymity structure utilizing a trust as sole member/manager. Some clients require this. Note that anonymity must be built into the structure from the outset (i.e., it’s not possible to add it on later).

_____ No, this is not going to be an anonymity company. The names of all members and managers will be publicly disclosed in the formation documents in the usual way.

_____ Yes. Anonymity is a priority for us. We want to establish the LLC using an anonymity trust as sole member and manager of the LLC. We realize that this is a more expensive option that includes a Trust Agreement (details below). Layering of entities should also be considered in light of recent federal laws regarding transparency and disclosure of beneficial owners.

Our anonymity structures are designed to function as an integrated whole. We do not allow any portion of this process or any portion of the structure to be carved out and given to other law firms or done on a DIY basis. Sorry, no exceptions.

15. For Anonymity Companies Only: Trust Information. If this is going to be an anonymity company as mentioned in the previous question, please supply the information below.

If this is not going to be an anonymity company, disregard this question and continue to the next.

A) Name of Trust: _____

Usually it is simplest just to use the same name for the trust as for the LLC – e.g.: “ABC LLC” would be owned and managed by the “ABC Trust.” But this is variable at your election.

Address of Trust: _____

As always, we suggest a POB for the trust.

B) Who will act as Trustee?

_____ The sole Trustee will be _____

Address: _____

_____ There will be Co-Trustees (the usual case for husband and wife)

Names: _____

Address: _____

Who will be the Successor Trustee if the Trustee dies or is unable to serve?

Name: _____

Address: _____

C) Beneficiary or Beneficiaries:

Children are often (if not usually) named as Beneficiaries. If this is the case, what are their names?

It is also possible to name one or more Contingent Beneficiaries (in case the Primary Beneficiaries do not survive. This is optional. If applicable in your case, please supply names:

Are any of the Primary Beneficiaries or Contingent Beneficiaries minors? If so, we will need to draft the Trust Agreement to include a sub-trust for minors.

_____ Yes. Names: _____

The sub-trust(s) should terminate at age: ____ 18 ____ 21 Other: _____

_____ No minors involved.

Disregard the next question if you are forming a traditional and not a series LLC.

16. For Series LLCs: Property of Individual Series. If you are forming a series LLC (rather than a traditional LLC) which property or businesses do you want to put in each series (if you know at this time)? We use a letter system – Series A, Series B, etc. – so please follow that alphabetical format. Disregard this question if you are forming a traditional (i.e., not a series) LLC.

Example: Series A: rental property at 123 Oak St., Houston, TX 77057
 Series B: my general contracting business called “Mr. Fix-It”

Series A: _____

Series B: _____

Series C: _____

Series D: _____

Conveyance of real property, a business, or other asset into a series is not automatic as a result of forming the company. It must be accomplished by a separately executed Warranty Deed (or Bill of Sale for non-realty assets) into the specific series (Series A, Series B, etc.). Such deeds are not included in LLC formation fees. As a matter of process and billing, we usually handle deeds into series as a separate, second step after company formation.

17. More Detail on Managers. As to actual management of the company as a whole, to be shown in the First Meeting of Members, who will be managing the LLC? At this point we

want to list all managers, whether all of them were disclosed on the COF or not. Note that the First Meeting of Members is an internal (non-recorded) document. Please select:

_____ one manager - name: _____
address: _____

_____ co-managers (common for business partners or husbands and wives)

name: _____
address: _____

name: _____
address: _____

_____ we will be hiring a non-member manager:

name: _____

address: _____

Disregard this next question if you are forming a traditional (i.e., not a series) LLC

18. For Series LLCs: Series Management. As to management of each individual series (if you are forming a traditional LLC, disregard this question):

_____ The managers of the company will also manage the individual series (This is the usual case for our clients, about 95% of the time).

_____ We will have a separate managing member for each series/property (This is permitted but can get complex). Extra fees may apply for custom drafting.

Details: _____

19. Officers for the LLC: Will you be selecting officers as well as managers? Usually, LLCs just designate one or more managers. Officers are optional. Around 10% of clients choose to name officers in addition to managers.

Will you be selecting officers such as Chairman, CEO, President, Treasure, Secretary, or any assistants or deputies thereof? *Note for anonymity clients:* if your initial manager is going to be a trust (an “anonymity company”) then any officers you name will have to be disclosed in annual filings (so you may not want to name officers at all).

_____ No officers at this time. I’ll keep it simple and just go with the title of Manager.

_____ Just one officer – Make me President as well as Manager

_____ Yes, the officers will be (choose the ones that apply):

Chairman: _____

President: _____

CEO: _____

CFO: _____

Vice-President: _____

Secretary: _____

Treasurer: _____

Other: _____

20. Signing Authority – Membership Certificates.

Who will be empowered to sign Membership Certificates?

- _____ the sole manager
- _____ any manager may sign
- _____ both managers (if there are co-managers) must sign
- _____ president (if officers are named)
- _____ secretary (if officers are named)
- _____ the records custodian (for anonymity companies)
- _____ other: _____

21. Signing Authority – Company Checks.

Who will be empowered to sign company checks?

- _____ same as above
- _____ the sole manager
- _____ any manager of the company may sign
- _____ both managers (if more than one) must sign
- _____ president (if officers are named)
- _____ secretary (if officers are named)
- _____ other: _____

22. Assumed Name(s). Have you already chosen an assumed name?

If you have chosen or filed a DBA (assumed name other than the official name at the secretary of state’s office), what is that assumed name so we can mention it the organizational minutes? This is not required at this point in the process, but if you already know what your assumed name will be, then we will be glad to refer to them in the First Meeting of Members. See our article *Assumed Names in Texas* for advice on this. Also, please note that it is the client (not us) who obtains assumed names for the LLC.

_____ We have no DBA at this time. _____

Our DBA(s) will be _____

23. Non-Member Spouses. Will there be any spouses of members who will not also be members of this Company? Note that Texas is a community property state. If there will be non-member spouses, then their consent will be required at the end of the Company Agreement.

_____ No

_____ Yes. Their name(s) is/are: _____

OPTIONAL ADD-ONS

24. Option – Transfer of Real Estate into LLC. General Warranty Deeds into the LLC are usually \$450 excluding filing. More complex deeds, or deeds with lengthy metes and bounds descriptions, will incur additional expense. We will need a copy of the existing warranty deed to the Property in addition to this LLC Checklist.

_____ No, we do not need any deeds of real estate at this time.

_____ Yes, we do need a General Warranty Deed. The full property address is _____

If we are going to prepare one or more warranty deeds, please send us a copy of the existing warranty deed to the Property. If you would, write the full physical address at the top.

Note: generally we handle transfers of property into an LLC as a separate second step, after LLC formation. So deeds will not be included on your statement for LLC formation. Inquire if uncertain in your case.

25. Optional – Transfer of Business Interests into LLC. After forming the company, will you be transferring any businesses or other non-realty assets into it or into one of the series? If so, an Assignment or Bill of Sale will need to be prepared to accomplish that transfer. In some cases, if the business owns real estate, you may need a Warranty Deed *and* a Bill of Sale to complete the process. \$375 for valuations up to \$600,000.

_____ No, we do not need an Assignment or Bill of Sale. No non-realty assets are being transferred.

_____ Yes, we do need a Bill of Sale. Details: _____

If you are wanting a Bill of Sale, note that it is the client's obligation to produce any exhibits (a list of furniture or inventory being transferred, for example). So you will need to prepare any such exhibit and send it to us.

26. Optional: Our Management & Consulting Agreements. Management & Consulting Agreements (for clients establishing our recommended two-company structure). An accounting device that provides a basis for moving funds back and forth between the two companies – management fees in one direction, consulting fees in the other. A convenient way to label transfers. Provided in pdf. \$350.

_____ No, we do not need these agreements at this time.

_____ We would like to have management and consulting agreements included in order to facilitate capital flows between our two companies (add \$350).

This company is the: _____ management company _____ holding company

If we do not have information on the other company please supply the following:

The name of the other company is: _____

Address: _____

Signature by _____, its [title] _____

27. Optional: Equity Stripping. Will you be implementing an “equity stripping” arrangement to reduce your company’s public value in the eyes of creditors and plaintiffs? Suggested for those threatened with litigation. Note that this is done on an individual county (not statewide) level. Equity stripping can always be done later as an add-on.

_____ No, we do not need to do any equity stripping at this time.

Yes. Details: _____

28. Optional: Property Management Agreement. Will you need our suggested Property Management Agreement (if you will be using an independent contractor as a third-party property manager)? \$295. This is not necessary if you are utilizing our recommended two-company structure.

_____ No, we do not need this at this time.

_____ Yes, we’d like to have a property management agreement. The name and address of the manager is:

Special instructions are: _____

29. OptionL: Residential Lease Template. Will you be needing a residential lease agreement for use with your investment properties? We can supply a strong landlord-oriented lease editable in Word (the same one we use for our rental properties). \$295.

_____ No, we do not need the lease template at this time.

_____ Yes, please include the lease template

30. Optional: Confidentiality and Non-Compete Agreement (NDA). Will you be needing a Confidentiality and Non-Compete Agreement to be signed by all members that protects the LLC's confidential information? \$295.

_____ No, we do not a Confidentiality/Non-Compete Agreement

_____ Yes, please include this.

31. Optional: Special Power of Attorney. This would be a "Special Power of Attorney," to be used in the event of the legal incapacity of a member.

The purpose would be to provide another person with the legal authority to manage the LLC. \$295. Although it is not the purpose of LLC documents to provide for estate planning, this particular option could be helpful as a practical matter in managing the LLC if one manager's health declines and he is incapacitated. [*Not* the same as a last will & testament or comprehensive estate plan].

_____ No, we do not need this.

_____ Yes, please include one Special Power of Attorney ("POA").

(a) The POA will commence or activate:

_____ immediately

_____ upon disability or incapacity

(b) The duration of the POA will be:

_____ indefinite, until expressly revoked

or

_____ It will terminate on _____ 202_____

(c) The POA will be (insert names):

from: _____

to: _____

SHIPPING OF COMPANY BOOK AND DOCUMENTS

32. Company Book and Shipping

Choice of company book (our approximate cost from the vendors we use):

_____ Standard (above average and very nice quality): Burgundy/black hard cover with membership certificates and seal (\$155). This book is produced by a printing company in Houston.

_____ Upgraded book (display quality): burgundy leather (\$255). This book is ordered from a printing company out of New York.

We require that the LLC documents be placed in a company book. This is the traditional and professional way to produce and present LLC documents. No exceptions, sorry - we do not send out loose company documents. Note that there may be some variation in available LLC books since our vendors' inventory may change from time to time. Also, leather books may differ slightly in the shade of leather used. We think you will be pleased with the final product.

Choice of shipping from us to you:

_____ UPS ground shipping is OK (\$30)

_____ I prefer 2-day air (add \$50)

Ship the company book to:

_____ the company's registered address shown above.

_____ my physical address shown below (we use UPS exclusively, so *please supply a street address* – UPS will usually not deliver to a PO Box unless it's a UPS store).

33. Do you have any special requirements or instructions that are not covered above? Please specify:

CONCLUSION

Please initial each item below (required):

 I understand that the Texas Secretary of State is experiencing long delays. Processing of new LLCs and amendments to existing LLCs now takes up to two weeks. This slow processing is historically unusual (now the slowest in the U.S.). The process used to be much more efficient before the pandemic. The Secretary of State’s office has had several leaders who have politicized and degraded its performance, and its budget and staff are insufficient. This should be of concern to all Texans who value our state as a business-friendly place. Suggest writing your state representative.

 I understand that the attorney has no control over our LLC formation documents once they arrive at the Secretary of State’s office. Once filed, processing and approval is out of our hands. Be assured, our law office prioritizes efficiency. Documents are sent to county clerks for recording and to the Secretary of State usually the same day and certainly within one business day.

 The progress of our filing can be monitored on the Secretary of State’s business filing tracker at <https://webservices.sos.state.tx.us/filing-status/status.aspx>.

 I understand that if my need for an LLC is urgent it has been suggested that I use the State of Nevada as an alternative, which is a common choice since Nevada is one of the top four asset protection states and is often used by Texas clients of this law firm. Another alternative is one of our immediately-available shelf companies (very limited inventory since they are in such high demand). We are also in the process of adding Wyoming as an option.

 All documents supplied in connection with LLC formation are proprietary intellectual property and are not sold to the client but are merely licensed for a specific use and purpose. They may not be copied, re-used, or re-purposed without our express prior permission. There is no “return” of this intellectual property. We are confident that you will find our LLC documentation to be among the best in the business.

 This law firm specializes in real estate law and asset protection structuring. We do not give tax advice. Our attorney is not a CPA. We ask and expect that all of our clients will have a CPA who is familiar with their tax situation and who will offer tax guidance on proposed entity structures and subsequent transactions.

 After receiving an itemized statement, should I choose to proceed, I will be requesting LLC formation and advice along with company document preparation only. I am not asking the attorney to represent me or advise me versus any other persons or third parties who may also become members or managers of the LLC. (Technically, these persons should have their own counsel.) If there is a pending real

estate transaction associated with this LLC formation (e.g., purchase or sale of real estate), I am not asking that the Attorney represent or advise me in that transaction.

 This law firm's terms of service are posted on the website at <https://lonestarlandlaw.com/fees-and-policies> and apply to all clients in lieu of individual fee agreements. Please inquire about these if you have any questions. I accept these terms.

Thank you for taking the time to supply the foregoing information. We are sorry for the quantity of it, but we want to be thorough and give you every opportunity to customize the LLC formation process to suit your individual needs and circumstances.

This completed Checklist may be emailed to LoneStarLandLaw@aol.com or faxed to (832) 201-5321. Turnaround is usually about two business days so long as we get all the information we need plus payment.

Please attach a fully legible copy of the warranty deed to any real property that is being transferred. Alternatively, you can attach a copy of a title commitment or title policy. Please transmit all such documents electronically, by email or fax.

Let us know if you need a no-obligation itemized statement before making payment. We will gladly provide one that reflects the options you've chosen above. Otherwise, please go to the payment page of www.LoneStarLandLaw.com for payment options. Files go into our work queue in the order that payment is made.

Name of client completing this checklist:

Billing Address: _____

Phone: _____

Email: _____