



## Did You Know? Drafting Considerations for Delaware Limited Liability Company Operating Agreements

Feb 28, 2014

Reading Time : **1 min**

3. Members, managers and assignees are bound by the operating agreement whether or not they execute the operating agreement.
4. The LLC is not required to sign the operating agreement.
5. Profits, losses and distributions are allocated based on the capital accounts of the members.
6. Upon withdrawal as a member, that member is entitled to distributions from the LLC for a reasonable period of time following such withdrawal.
7. Failure to make distributions to a member when due entitles the member to be a creditor of the LLC with all rights and remedies available to such member as for any other creditor of the LLC.
8. Traditional fiduciary duties of loyalty and care govern the internal affairs of the LLC. The implied covenant of good faith and fair dealing cannot be waived by the operating agreement.
9. Supermajority amendment provisions only apply to items expressly set forth in the operating agreement (and not the default provisions of the Delaware Limited Liability Company Act).
10. Freedom of contract is the fundamental principle underlying the Delaware Limited Liability Company Act and, except as noted above, all of the items above can be amended or waived

to the extent set forth in the operating agreement.

## Categories

Corporate Governance

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.