

Organizational Documents: These are the documents necessary to form a type of business under state law. These documents need to be filed with the state's Secretary of State.

- Corporation: Articles of Incorporation
- Limited Liability Company: Certificate of Organization
- General Partnership: Statement of Partnership Authority
- Limited Partnership: Certificate of Limited Partnership

Governing Documents: These are the documents that set forth how a business is controlled and operated, and the basic rules which will govern the business' activities. These documents will determine how significant issues affecting the business are voted upon, or how those controlling the direction of the business are elected.

- Corporation: Bylaws
- Limited Liability Company: Operating Agreement
- General Partnership: Partnership Agreement
- Limited Partnership: Partnership Agreement

Buy-Sell Agreement: A Buy-Sell Agreement determines the scenarios under which the owners of the business may transfer their ownership interest or other owners or the business may be required to buy out an owner. Though it may be contained in its own, separate agreement, it does not have to be. The Buy-Sell provisions may instead be found in the governing documents, or they may be found in some other agreement between the owners. Although Buy-Sell provisions are not required to form a business, the procedures outlined by a Buy-Sell Agreement are especially helpful to prevent or contain conflict in closely held entities.

Shareholder Agreement: This is a catch-all term. This document will contain additional terms upon which the owners agree and which are not in the governing documents. Typically, the Agreement will grant additional rights to the Shareholders beyond those which come naturally from owning the interest. There is not a clear divide to determine which terms should be placed in the governing documents and which should be placed in the Shareholder Agreement. It will vary from one business to the next. For example, determining how board members are elected could be found in a Shareholder Agreement rather than the Bylaws, though that is rare. The Buy-Sell Agreement could be found in the Shareholder Agreement. A Shareholder Agreement is not necessary, but there are several advantages to having one. First, the Agreement provides a level of privacy not found in the governing papers. Second, the Agreement can cover anything the Shareholders can think up so long as the additional terms do not violate the law or public policy. Lastly, it is usually easier to amend a Shareholder Agreement than the governing documents.



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