The Startup Wind-Down Playbook

A phased framework for founders

Take charge of your startup's destiny

Version 1.0 - July 2026
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The process of winding down a venture-backed startup can be punishing, isolating, and emotionally exhausting. Founders can face anger from investors, disappointment from employees, and intense personal stress. The realization that winding down is the only viable path left feels like failure, even if in reality the high failure rate of venture-backed startups is a feature of the ecosystem, not a bug.

The founders who weather this process best act decisively, communicate transparently, and ruthlessly separate their personal identity from the corporate entity. Lean on your advisors, executive coaches, and peers. How you handle this process can define your reputation for your next venture. The ecosystem rewards founders who recognize that, despite their best efforts, there is no path forward and shut down responsibly.

A structured framework helps founders move from a state of emotional paralysis to operational execution. The primary goal of an orderly, out-of-court wind-down is to fulfill fiduciary duties, maximize any remaining value, reduce the risk of personal liability to founders and board directors, and avoid formal bankruptcy proceedings.

This document outlines a phased approach to winding down, helping to ensure that you don't run out of cash before fulfilling your legal obligations. This is a high-level, general roadmap to help you think through the right approach for your startup.

You can get through this. Many other founders have walked this path.

Important Notice & Scope

This document is a strategic and operational framework. It does not constitute legal, tax, or financial advice. Engaging competent legal counsel specializing in corporate dissolution and restructuring is the mandatory first step before initiating any wind-down process. This document is U.S.-centric. Startups with international operations need advice specific to the laws of each jurisdiction.

Reading or using this document does not create an advisory relationship.

The 8 Core Principles of an Operational Wind-Down

Before diving into the tactical phases, keep these eight governing principles at the forefront of your decision-making:

1. **Calculate Your Total Wind-Down Costs:** You cannot determine when to shut down until you know the true cash required to shut your startup down. That includes a buffer for unexpected costs. Because there are always unexpected costs.

2. **Establish a Non-Negotiable "Pencils Down" Cash Trigger:** Set a hard financial line that includes your estimated wind-down costs plus a buffer. Continuing to burn cash hoping for a miracle after hitting this line is a breach of your fiduciary duty.

3. **Engage Your Board Early:** Bring your board along in Phase 1 before asking for a formal vote in Phase 2. No board member should ever be blindsided by a wind-down resolution.

4. **Engage Expert Counsel Early:** Winding down is a specialized legal restructuring, not standard corporate governance. Retain counsel experienced in corporate dissolution before taking operational actions to protect you and your board from personal exposure.

5. **Protect Directors & Founders From Personal Liability:** In the "zone of insolvency," your fiduciary duty shifts from shareholders to creditors. This affects every decision you make once this threshold is crossed.

6. **Freeze All Vendor & Discretionary Disbursements:** Once you cross your wind-down trigger line, stop paying non-critical vendors immediately. Do not make ad-hoc payments or attempt piecemeal settlements. Paying select creditors out of order risks preferential payment claims and drains funds needed for mandatory payroll, taxes, and legal fees. *Secured debt is the exception — never act unilaterally on a lender holding a lien on your assets.*

7. **Stop Operating Burn Before Negotiating Settlements:** Cut non-essential spend, break contracts, and offboard staff in Phase 3 to reduce your cash burn as quickly as possible. Coordinate with your legal counsel on negotiating vendor settlements later in Phase 5 as a single, legal-led package from a position of preserved cash.

8. **Follow a Strict Sequence of Communications:** Execute notifications in a disciplined order *(Board → Execs/Skeleton Crew → Employees → Key Investors → Customers → Vendors/Public)* to control the narrative.

Phased Framework at a Glance

Phase	Core Objective	Key Deliverable
Phase 1: Assessment	Calculate total wind-down costs & establish runway trigger line	"Pencils Down" Cash Trigger & Board Awareness
Phase 1a: Compressed M&A Sprint	Convert stalled buyer conversations into a hard-deadlined offer **while the company is still operating**	Binding offer, LOI, or 100% conviction to proceed
Phase 2: Planning & Assembly	Formalize wind-down infrastructure & secure approvals	Board Resolution, Legal Retainers, D&O Tail & Master Tracker
Phase 3: Execution & Notification	Execute offboarding, stop operating burn & notify stakeholders	Compliant Final Payroll, Customer Transition & Sequenced Communications
Phase 4: IP/Asset Sale (Post-Shutdown)	Sell IP and code from a non-operating holding state **after burn is eliminated**	14–30 Day Time-Boxed IP Sale or ABC Transition
Phase 5: Liquidation & Dissolution	Settle liabilities out of court & formally dissolve entity	Legal Creditor Releases, Waterfall Payouts & Final Tax Filings

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Master Project Tracker

Do not manage this process in your head. Immediately translate these phases into a master project tracker spreadsheet. Assign specific owners, prioritize tasks, and establish hard due dates for every operational and legal step outlined below.

Phase 1: Assessment & The "Wind Down" Decision

The goal of this phase is for you to determine the definitive point of no return. You must establish a clear financial trigger line to ensure you do not slip into insolvency before executing an orderly shutdown.

Calculate Your Total Wind-Down Costs

To know exactly *when* you must shut down, you first need to know how much shutting down costs. While detailed planning happens later, you must complete a rigorous, preliminary estimate of your wind-down expenses to calculate your true runway triggers. This estimate must account for:

- **Upfront Professional Fees:** Do not underestimate this. Executing a wind-down is a significant legal undertaking. Corporate counsel and restructuring specialists will often require a substantial retainer to be paid upfront before they begin work.

- **Personal Exposure Map:** Founders often forget what they signed years ago. Audit office leases, corporate credit cards, and key vendor agreements for personal guarantees that could create personal liability.

- **Secured Creditors & Venture Debt:** If a bank or venture debt fund holds a UCC lien on your assets, you cannot unilaterally sell assets or distribute funds without their consent. Identify every secured facility and factor it into your estimate. How and when to engage the lender is a decision for counsel (see Phase 2).

- **The Skeleton Crew Retention:** Identify the absolute minimum personnel required to execute the wind-down (e.g., a fractional CFO, an HR lead, a specific engineer to package IP). Estimate the cost of their salaries for the duration of the wind-down, plus potential retention bonuses to ensure they don't leave early.

- **First-Wave Severance & Tax Liabilities:** Estimate the severance and PTO payouts for team members who will be offboarded immediately upon hitting your trigger. Include unpaid sales taxes and payroll taxes.

- **Operational Liabilities & Franchise Taxes:** Estimate costs for breaking office leases, early termination penalties for enterprise SaaS agreements, lingering state fees (like Delaware franchise taxes, which accrue until formal dissolution), and the upfront cost of a 3-to-6 year D&O (Director & Officer) tail insurance policy.

- **Sale Process Costs (Both Windows):** If you plan to run a compressed M&A sprint in Phase 1a, an IP/asset sale in Phase 4, or both, the cost of executing those processes belongs in this estimate. Include advisor or banker fees if you use one, legal fees for drafting and negotiating agreements, skeleton crew payroll and retention bonuses to support diligence, and operating costs required to keep the product demonstrable for buyers.

Personal Liability Risk

Founders and directors can face direct personal liability for unpaid wages and accrued vacation, payroll tax withholdings, and collected sales taxes. These obligations sit outside normal corporate protection, and calculating them upfront is vital to protecting yourself.

Your Wind Down Trigger - The Line in the Sand

Your "Wind Down" trigger is the sum of the wind-down costs estimated above, *plus* the operating burn required to survive the time it takes to actually execute the decision.

- Include an estimated buffer for unknown expenses that will inevitably materialize when you start this process.
- When cash hits this trigger line, in the absence of committed additional funding, you must cease normal operations. Hoping for a miracle deal to close after crossing this line is a breach of duty.

Fiduciary Duties in the Zone of Insolvency

As a company enters the "zone of insolvency," the board and founders' fiduciary duties shift from maximizing shareholder value to protecting the interests of creditors. Preserving remaining cash to pay creditors in the legally required order becomes the absolute priority once you enter this zone. Continuing to burn cash at the expense of creditors after entering insolvency exposes founders and directors to personal liability.

Legally, a startup enters insolvency under two standard tests:

- Cash Flow (Equity) Insolvency: You can no longer pay obligations (payroll, rent, vendor invoices) as they come due in the ordinary course of business.
- Balance Sheet Insolvency: Your total liabilities exceed the fair market value of all company assets.

In practice, most venture-backed startups hit cash flow insolvency long before bank accounts reach $0.

Board Awareness & Early Signaling

If you are developing this assessment, your Board should be aware. You are not asking for a formal vote yet. But you want them to know this inflection point is ahead. This gives them time to process the possibility, suggest alternative courses of action, or develop a plan for additional funding to extend your runway. Bringing them along in this journey will make it easier to gain their approval in Phase 2.

Phase 1a: The Compressed M&A Sprint

Most startups approaching a wind-down are not starting an M&A process from scratch; they are already in ongoing strategic or acquihire discussions. As those primary conversations stall or look increasingly unlikely to yield a whole-company transaction, you should pivot those *existing* pipeline participants into a hard-deadlined, compressed asset or talent acquisition process before crossing your Phase 1 trigger line.

- **Drop Posture & Remove Hurdles:** Posturing time is over. Signal explicitly to remaining participants that previous friction points—whether valuation expectations, governance demands, or complex deal structures—are no longer hurdles. For the founder and your board, the choice at this stage is binary: $0 with a messy wind-down, or a soft landing that preserves the technology, saves team jobs, and protects your market narrative.

- **Set Hard Deadlines on Active Discussions**: Contact remaining active participants in your M&A pipeline and transparently set a firm, non-negotiable deadline before you hit your wind-down trigger (e.g. 14-21 days) to receive a final binding offer while operations are still active and the team is intact.

- **The Dual-Track Reality:** Frame this deadline as the buyer's final opportunity to acquire the technology, customer relationships, or core team before the company transitions into a formal, operational wind-down.

- **Impact on the Wind-Down Trigger:** A firm binding offer or LOI during Phase 1a can fundamentally alter your financial calculations. If Phase 1a yields no firm commitments by the deadline, you gain 100% conviction to immediately execute Phase 2 (The Wind-Down Plan) without wasting remaining cash on drawn-out, speculative negotiations.

Your Phase 1a deadline sits inside your trigger line, not past it.

Work backward. The date you give buyers for a final binding offer must land far enough ahead of your trigger that on the day it expires, you still have the full wind-down cost estimate in the bank. If the deadline you need to run a credible process pushes past your trigger, your trigger was set too late — you are already out of time, and the correct move is Phase 2.

Phase 2: Building The Wind-Down Plan

The goal of this phase is to build the internal infrastructure, team, and timeline for an orderly wind-down before taking external action. This phase commences when the trigger established in Phase 1 is hit or becomes unavoidable.

Phase 2 Execution Items

- [ ] **Freeze Cash**: Immediately pause non-essential spend and vendor payments.

- [ ] **Secure Board Approval:** Convene a Board meeting to present your financial calculations and wind-down plan. Secure formal board approval authorizing the transition into a wind-down posture. Document this decision in the board minutes.

- [ ] **Retain Counsel:** Formally retain legal counsel for the wind-down. You must also retain and pre-pay your CPA firm to handle final corporate tax filings and potential wrap-up audits. Depending on the complexity and debt load, you may also engage a wind-down advisory firm or an Assignee if considering an Assignment for the Benefit of Creditors (as explained below).

- [ ] **The Wind-Down Budget:** Translate the rough estimates from Phase 1 into a strict, finalized cash flow forecast specifically governing the wind-down period. This budget must be approved by the board and closely monitored.

- [ ] **Secure D&O and E&O Tail Insurance:** Bind a 3-to-6 year D&O tail policy *before* executing the wind-down. Errors & Omissions (E&O) or Cyber liability tail insurance should also be considered. Securing tail coverage while cash is still available is critical for protecting the board and executive team from post-shutdown shareholder or creditor claims.

- [ ] **Asset & Liability Inventory:** Catalog all company assets (IP, physical equipment, cash, domains) and comprehensively list all outstanding liabilities, vendor contracts, debt facilities, and property leases.

- [ ] **Address Secured Debt with Counsel:** If you have venture debt or any facility secured by company assets, work with your counsel on approach and timing for discussions regarding settlement of these obligations. Missing a payment can trigger default; an unprepared conversation can trigger acceleration. Either can hand control of your assets, including IP you may be trying to sell, to the lender.

- [ ] **Data Archiving:** Before breaking SaaS contracts, secure and export the company's data. Ensure you have independent access to your IP, vital employee records, board minutes, and documentation required for compliance and asset sales, in case systems like G-Suite, AWS, or your HRIS are locked due to non-payment.

- [ ] **Finalize Key Personnel Retention:** Solidify the skeleton crew. Draft and execute retention agreements for these key employees, clearly outlining their specific responsibilities and the milestone triggers for any agreed-upon retention bonuses.

- [ ] **Communication Collateral & Scripting:** Pre-draft all communication materials and have them reviewed by legal before launching Phase 3. This includes the All-Hands layoff script, employee FAQ, individual separation agreements, investor updates, customer transition letters, vendor outreach and settlement plan, and a press/public holding statement (if needed).

Phase 3: Execution & Notification

The goal of this phase is to execute the operational shutdown while mitigating legal exposure, preserving relationships, and stopping the burn. Execute your wind-down plan in close coordination with your legal counsel.

Phase 3 Execution Checklist

- [ ] Employee Offboarding & Final Payroll: Structure layoffs methodically. This is a critical area for potential personal liability. Many states (like California) have strict laws regarding the timing of final paychecks and PTO payouts.

    - Many states impose direct personal liability on officers for unpaid final wages, separate from any corporate protection.
    - Rely heavily on counsel and HR support to ensure compliance, address WARN Act requirements (if applicable), and structure COBRA notifications.
    - Terminating employees on H-1B or other visas triggers a countdown for their legal status. Coordinate with immigration counsel regarding notifications and handle these conversations with specific care.
    - Formally communicate the cancellation of outstanding options, ISO exercise windows, and worthless equity to all stakeholders. Employees often leave thinking their options remain valid; proactive clarity prevents future disputes.

- [ ] Customer Communications: Execute a phased, transparent notification strategy.

    - Treat your customers fairly to protect your future reputation as a founder.
    - Giving customers reasonable time to export their data and transition off of your platform or services may be crucial to avoiding lawsuits.

- [ ] Vendor Communications & Contract Termination: Notify vendors to immediately halt services and stop auto-renewals.

    - Systematically break office leases, SaaS agreements, and operational contracts to stop future billing.
    - The immediate goal is to reduce cash burn as quickly as possible.

- Remember Principle #6: freeze all vendor disbursements immediately and do not pay termination penalties ad-hoc. All settlements will be negotiated in Phase 5 as a single, legal-led package.

Strict Sequence of Communications

Execute notifications in a strict order of operations to adhere to good corporate governance, prevent leaks and manage the narrative:

1. Board of Directors: Provide the board with real-time updates on cash preservation, severance execution, and immediate blockers. Inform the board of any surprises or potential problems as soon as possible.
2. Executive Team & Skeleton Crew: Lock in retention agreements and roles.
3. All Employees: Conduct the All-Hands meeting followed immediately by 1:1 offboarding sessions.
4. Key Investors: Send a formal update detailing the wind-down decision immediately following (or concurrently with) the All-Hands to manage narrative and prevent rumors.
5. Customers & Strategic Partners: Direct outreach to key accounts, followed by general notification.
6. Vendors & Public Announcement: Terminate contracts and release any public statement.

Phase 4: The IP/Asset Sale (Post-Shutdown)

For companies with valuable intellectual property, technology, or patents, the goal here is to transition the company into a non-operating holding state to take one final run at an asset sale. The sole focus should be IP preservation and technical diligence.

Before You Start: The Phase 1a Test

This phase is optional, and for many companies the right answer is to skip it. The signal is what happened in Phase 1a:

- **If buyers engaged but could not close a whole-company transaction**: Phase 4 is worth the time box. The interest was real; only the structure failed. A strategic buyer who passed on the team may still pay for the code.
- **If Phase 1a produced silence:** No LOI, no bid, no diligence requests, then a post-shutdown IP sale is unlikely. Your assets are worth less now than they were three weeks ago: the team is gone, the product is dark, and any buyer knows you have no alternative. Move directly to Phase 5 or an ABC.

Do not staff this phase on hope. Every day of skeleton crew payroll and hosting cost comes out of cash your creditors are owed, and you will be asked to justify it.

Phase 4 Execution Checklist

- [ ] The Skeleton Crew: Retain only the essential personnel or contractors required to maintain the IP, keep the servers running at a minimal level, and facilitate technical diligence for potential buyers.
- [ ] Strict Time Box (14–30 Days Max): Run a compressed asset sale process with a strict, non-negotiable deadline. Do not allow this phase to drag out into a long-tail cash burn; if buyers are not actively at the table, pivot cleanly to Phase 5 or an ABC (see below) to eliminate ongoing hosting and payroll liability.

The ABC Decision Point

An orderly out-of-court wind-down requires two things: enough cash to execute, and creditors willing to settle. If either fails, an Assignment for the Benefit of Creditors (ABC) is the most common alternative for venture-backed startups.

An ABC is a state-level insolvency proceeding — faster, quieter, and less expensive than federal bankruptcy. The company transfers its assets and liabilities to an independent fiduciary, the Assignee, who liquidates the assets and distributes proceeds to creditors.

- **When it applies:** Creditors refuse to settle, the Phase 4 asset sale finds no buyer, or the board wants an independent fiduciary running the liquidation.
- **What it costs:** The Assignee requires a significant upfront retainer, often $50k–$100k or more. Identify this in your Phase 1 estimate — a company that burns to zero has foreclosed the option.
- **What you give up:** Control. The Assignee decides which assets to sell, to whom, and how proceeds are distributed. You cooperate; you don't vote. What you gain is a clean fiduciary process and distance between the board and the liquidation.

If creditors will not settle and an ABC is not viable, formal bankruptcy may be the only remaining path. Chapter 7 and Chapter 11 are outside the scope of this framework and require specialized bankruptcy counsel. If you think you may be headed there, raise it with your attorneys early. Your options narrow as cash runs out.

Phase 5: Liquidation, Settlement & Dissolution

The goal of this final phase is to monetize any remaining assets, settle with creditors out of court, and formally close the corporate entity.

Phase 5 Execution Checklist

- [ ] **Legal-Led Creditor Settlements:** Negotiate with vendors, landlords, and unsecured creditors to settle outstanding liabilities, where possible for a fraction of what is owed. Remaining cash and asset sale proceeds must be distributed in a legally required order of priority.

    - The specific order, and how your particular liabilities map onto it, is determined by your jurisdiction and your facts. Your counsel makes that call.
    - What matters for you as a founder is understanding that the sequence is not discretionary. Paying a sympathetic vendor ahead of a tax liability, or repaying a founder loan ahead of employee wages, is one of the most common ways a well-intentioned founder creates personal exposure during a wind-down. Route every disbursement decision through counsel before funds leave the account.
    - Equity holders receive nothing unless every creditor is made whole, which rarely happens.
    - Crucially, all settlement negotiations, documentation, and releases must be coordinated directly with your legal counsel to ensure claims are properly extinguished and the company is protected from future liability before any funds are disbursed.

- [ ] **Corporate & Tax Filings:** File the final articles of dissolution in the state of incorporation and any states where the company is registered to do business. File all final tax returns and issue final tax documents (W-2s, 1099s).

    - Note that formally dissolving the corporation often requires obtaining tax clearance certificates from the state(s) of operation, which can be a slow, bureaucratic process that delays the final closure of bank accounts. Ensure you account for lingering franchise taxes (like Delaware) that continue to accrue until this process is officially complete.

A Final Word

After reviewing this guide, you might feel overwhelmed by the process in front of you. The decision to wind down, the work involved, and the execution risks along the way can seem daunting.

But the reality is, you can't look away and hope those risks diminish. Cash burn doesn't pause for a decision. Every week you wait costs you options, not just money. The founders who come through this well are the ones who move before the choice is made for them.

Nothing makes this process easy. But it is navigable. Act early. Communicate clearly. Lean on your counsel, your advisors, and the people who have done this before.

At some point in the founder journey, you are no longer fighting for unicorn status, venture-scale outcomes, and the next glowing press release. Your perspective shifts to making the hard choices and winding down the right way. Take solace in the fact that this too is part of the startup journey. This experience becomes part of the foundation that supports your next adventure.

Take charge of your startup's destiny

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This framework improves with input from founders who've been through it. The current version is at ericashman.com. Corrections and suggestions welcome.
