

NEW MEXICO LIMITED LIABILITY COMPANY MULTI-MEMBER OPERATING AGREEMENT

(Member-Managed)

Governed by the New Mexico Limited Liability Company Act, Chapter 53, Article 19, NMSA 1978

ARTICLE I ORGANIZATION

1.01 Formation and Governing Law.

This Limited Liability Company (the “Company”) is organized under the New Mexico Limited Liability Company Act, Chapter 53, Article 19, NMSA 1978 (the “Act”). The rights and obligations of the Members and the governance of the Company are subject to the Act except as expressly modified by this Operating Agreement.

1.02 Company Name.

The legal name of the Company is:

1.03 Articles of Organization and Online-Only Filing.

The Company was formed by filing Articles of Organization with the New Mexico Secretary of State, Business Services Division through enterprise.sos.nm.gov. The New Mexico SOS states that all business filings have moved online and paper filings are no longer accepted. Statutory filing fee: \$50 (§ 53-19-63); online portal totals may show approximately \$51.95–\$52 due to processing fees. This Operating Agreement is an internal document and is NOT filed with the New Mexico Secretary of State, Business Services Division.

1.04 Operating Agreement — Written Agreement Requirement.

Under § 53-19-2(O), NMSA 1978, the New Mexico LLC Act defines an operating agreement as a WRITTEN AGREEMENT governing the conduct of the Company’s business and affairs, including written amendments. Verbal or implied operating arrangements do not qualify as a statutory operating agreement. Under § 53-19-65, the policy of the Act is to give maximum effect to freedom of contract and enforceability of operating agreements.

1.05 Articles Quirks — Two Required Statements.

New Mexico Articles of Organization must include two statements that directly affect this Operating Agreement:

- (a) Under § 53-19-8(E), NMSA 1978, the Articles must state whether the LLC may carry on its business and affairs as a SINGLE-MEMBER LLC.
- (b) Under § 53-19-15, NMSA 1978, management vests in MANAGERS only if the Articles state that management is vested in managers. If the Articles do not include this statement, the LLC is member-managed by default.

This Operating Agreement must be consistent with both statements in the Articles. When the Articles and OA conflict, a court applies the Articles to third-party questions and the OA to internal governance disputes.

1.06 Registered Agent and Registered Office.

Under § 53-19-5, NMSA 1978, every New Mexico LLC must continuously maintain a registered office and registered agent in New Mexico. Failure for 30 days to appoint or maintain a registered agent, or to file a required change statement, may result in administrative revocation under § 53-19-66.1, NMSA 1978. Reinstatement requires filing within two years of revocation (§ 53-19-66.2).

Registered Agent Name:

Registered Office Address:

1.07 Principal Place of Business.

The principal place of business of the Company is:

Principal Place of Business:

1.08 Purpose.

The Company is organized to engage in:

and any lawful activity permitted under the Act.

1.09 Annual Report and Filing Obligations.

No New Mexico LLC annual or biennial report requirement was found in Chapter 53, Article 19, NMSA 1978 or the accessible New Mexico Secretary of State, Business Services Division materials. Verify current SOS portal requirements before relying on this statement. The LLC must maintain registered-agent compliance and satisfy all applicable New Mexico tax obligations.

1.10 No Publication Requirement.

No publication requirement for New Mexico LLC formation was identified in Chapter 53, Article 19, NMSA 1978 or the New Mexico Secretary of State, Business Services Division's formation materials.

ARTICLE II DEFINITIONS

As used in this Agreement, the following terms have the meanings set forth below:

- (a) "Act" means the New Mexico Limited Liability Company Act, Chapter 53, Article 19, NMSA 1978, as amended.
- (b) "Agreement" means this written Operating Agreement, including all written amendments, as required by § 53-19-2(O).
- (c) "Articles" means the Company's Articles of Organization filed with the New Mexico Secretary of State, Business Services Division, as amended.
- (d) "Capital Account" means the account maintained for each Member reflecting contributions, allocated profits/losses, and distributions.
- (e) "Capital Contribution" means any cash, property, services, or written promise to contribute as documented in Exhibit 1 (§ 53-19-21).
- (f) "Ownership Interest" or "Membership Interest" means a Member's interest in the Company as set forth in Exhibit 1.
- (g) "Value-of-Contributions Default" means the statutory rule under § 53-19-17, 53-19-22, and 53-19-23, NMSA 1978, that voting power, profits/losses, and distributions are allocated in proportion to the VALUE OF CAPITAL CONTRIBUTIONS made by each Member, adjusted for withdrawals — NOT by a simple ownership percentage unless separately specified.
- (h) "Distributional Interest" means the right to receive distributions from the Company. Under § 53-19-32, assignment does NOT automatically make the assignee a Member.
- (i) "Dissociation" means an event under § 53-19-38, NMSA 1978, causing a person to cease being a Member.
- (j) "SOS" means the New Mexico Secretary of State, Business Services Division.

ARTICLE III CAPITAL CONTRIBUTIONS AND ACCOUNTS

III.01 Initial Capital Contributions.

Each Member's initial Capital Contribution and Ownership Interest are set forth in Exhibit 1. CRITICAL NEW MEXICO TRAP: Under § 53-19-22 and § 53-19-23, NMSA 1978, if this Agreement did not exist, profits, losses, and distributions would be allocated in proportion to the VALUE OF CAPITAL CONTRIBUTIONS made by each Member, adjusted for withdrawals — NOT automatically equal, and NOT necessarily "ownership percentage." If the allocation should follow a different formula, state it expressly here.

III.02 Value-of-Contributions Default Override.

Under § 53-19-17, NMSA 1978, voting power defaults to the value of each Member's contributions, adjusted for withdrawals. Under § 53-19-22, profits and losses default to the same metric. Under § 53-19-23, distributions default to the value of unreturned contributions. The Members override these defaults: all voting, profit/loss allocations, and distributions shall follow the Ownership Interest percentages in Exhibit 1.

III.03 Capital Accounts.

The Company shall maintain a separate Capital Account for each Member. Capital Accounts shall be credited with contributions and allocated profits, and debited with distributions and allocated losses, consistent with Treasury Regulation § 1.704-1(b)(2)(iv).

III.04 Contributions — Forms and Written Promises.

Under § 53-19-21, NMSA 1978, a Member's contribution may consist of cash, property, services rendered, or a written promise to contribute. A written promise to make future contributions is enforceable against the Member and the Member's estate. No Member shall be required to make any additional contribution without the written consent of all Members.

III.05 No Interest on Contributions.

No Member is entitled to receive interest on any Capital Contribution unless separately agreed in writing.

ARTICLE IV ALLOCATIONS AND DISTRIBUTIONS

IV.01 Profit and Loss Allocation.

Profits and losses shall be allocated among the Members in proportion to their Ownership Interest percentages in Exhibit 1, overriding the value-of-contributions default of § 53-19-22, NMSA 1978.

IV.02 Distributions.

Distributions shall be authorized by the Authorized Persons and allocated in proportion to each Member's Ownership Interest in Exhibit 1, overriding the default of § 53-19-23. Authorized by:

Authorized by:

IV.03 Wrongful Distributions.

Under § 53-19-26 and 53-19-27, NMSA 1978, a distribution is wrongful if made when the Company cannot pay its debts as they become due in the ordinary course. Members who receive or vote for wrongful distributions may be liable to the Company.

IV.04 Tax Distributions.

To the extent funds are available, the Company shall make annual tax distributions estimated to cover each Member's income tax liability attributable to Company income, before any discretionary distributions.

IV.05 New Mexico Tax Compliance.

Federal tax classification follows IRS check-the-box rules: single-member LLCs are disregarded entities; multi-member LLCs are partnerships by default. Corporate treatment: IRS Form 8832 (C corp) or IRS Form 2553 (S corp). New Mexico follows the federal pass-through classification. The LLC may need to register for a New Mexico Business Tax Identification Number (NMBTIN; formerly the CRS number, renamed effective July 1, 2021) and file Gross Receipts Tax (GRT) returns. Out-of-state economic nexus threshold: \$100,000 in taxable New Mexico gross receipts from the prior calendar year. IMPORTANT: the \$50 annual corporate franchise tax applies ONLY to corporations and LLCs taxed as corporations, NOT to all New Mexico LLCs. BOI: under FinCEN's March 21, 2025 interim final rule, U.S.-created entities are exempt from BOI reporting.

ARTICLE V MANAGEMENT — MEMBER-MANAGED

V.01 Member-Managed Structure.

The Company is member-managed. Under § 53-19-15, NMSA 1978, management vests in the members unless the Articles vest management in managers. The Articles do NOT state that management is vested in managers. This Operating Agreement must be consistent with the Articles.

V.02 Value-of-Contributions Default Voting — New Mexico Trap.

CRITICAL: Under § 53-19-17, NMSA 1978, members vote in proportion to the VALUE OF THEIR CAPITAL CONTRIBUTIONS, adjusted for withdrawals. New Mexico does NOT default to one-member-one-vote. A member who contributed \$10,000 in an LLC where another contributed \$90,000 holds roughly 10% of default voting power. The Members elect the following voting basis:

Voting basis:

V.03 Ordinary-Course Decisions.

Ordinary-course business decisions shall be approved by:

Ordinary threshold:

V.04 Actions Requiring Supermajority or Unanimous Approval.

The following actions require the threshold specified:

(a) Amending this Operating Agreement or the Articles of Organization:

Threshold:

(b) Admitting a new Member (assignee admission requires unanimous consent absent OA provision: § 53-19-33).

(c) Selling all or substantially all Company assets.

(d) Merger or consolidation.

(e) Dissolving the Company (§ 53-19-39 — default: majority of voting power written consent).

(f) Removing a Member (default: unanimous vote of all other Members: § 53-19-38).

V.05 Fiduciary Duties and Liability Standard.

Under § 53-19-16, NMSA 1978, members and managers with management responsibility are liable to the LLC or other Members for acts or omissions ONLY if they constitute GROSS NEGLIGENCE OR WILLFUL MISCONDUCT (unless the Articles/OA provide otherwise). Managers and managing members also owe a fiduciary/trustee duty: they must account to the LLC for certain profits or benefits derived from company-connected transactions, company property, or confidential information, unless properly disclosed/approved or fair to the LLC.

V.06 Member Withdrawal.

Under § 53-19-37, NMSA 1978, for a perpetual LLC, a Member may voluntarily withdraw by giving at least 30 DAYS' PRIOR WRITTEN NOTICE unless the Articles or OA provide otherwise. For a term LLC, the default rule is stricter: a member does not have the right to withdraw before expiration of the stated term. Withdrawal conditions elected:

Withdrawal conditions:

V.07 Charging Order.

Under § 53-19-35, NMSA 1978, a charging order is available to creditors of a Member against the Member’s distributional interest. The charging-order holder receives only distributions to which the Member would otherwise be entitled and has no voting or management rights.

V.08 Records Maintenance.

Under § 53-19-19, NMSA 1978, the LLC must maintain the following records at its principal place of business: (a) current and former member and manager lists with addresses; (b) Articles and all amendments; (c) federal, state, and local income tax returns for the three most recent years; (d) financial statements for the three most recent years; (e) copies of current AND PRIOR operating agreements and amendments; (f) written capital contribution records.

**ARTICLE VI
TRANSFER OF MEMBERSHIP INTERESTS**

VI.01 Assignment — Economic Rights Only.

Under § 53-19-32, NMSA 1978, a membership interest is assignable, but assignment alone does NOT dissolve the LLC and does NOT make the assignee a Member. Until admitted, the assignee receives only the distributions and return of capital the assignor would have received.

VI.02 Assignee Admission — Unanimous Consent Required.

Under § 53-19-33, NMSA 1978, an assignee may be admitted as a Member only upon UNANIMOUS CONSENT of all Members, unless the Articles or this Agreement provide otherwise. Elected procedure:

Assignee admission threshold:

VI.03 Charging Order.

Under § 53-19-35, NMSA 1978, a charging order against a Member’s distributional interest is available to judgment creditors. The charging-order holder receives distributions only and has no voting or management rights.

VI.04 Transfer Restrictions.

The Members impose the following restrictions on transfers:

Transfer restrictions:

VI.05 Right of First Refusal.

Before transferring any Membership Interest to a third party, the transferring Member shall first offer it pro-rata to remaining Members. Remaining Members have:

Days to exercise ROFR:

VI.06 Dissociation Events.

Under § 53-19-38, NMSA 1978, a person ceases to be a Member upon: voluntary withdrawal; expulsion; bankruptcy; assignment of the entire membership interest; judicial expulsion; dissolution of a member entity; appointment of a receiver; or death or incapacity. Removal requires unanimous vote of all other Members unless the OA provides otherwise.

**ARTICLE VII
ADMISSION OF NEW MEMBERS**

7.01 Admission Requirements.

Under § 53-19-36, NMSA 1978, a person may be admitted as a Member upon written consent of all Members unless the Articles or OA provide otherwise. For an assignee to become a full Member, UNANIMOUS CONSENT is required by default (§ 53-19-33, NMSA 1978). Elected threshold:

Admission threshold:

7.02 Value-of-Contributions Default Reminder.

New Mexico’s defaults tie voting power and profit/loss allocations to the VALUE OF CAPITAL CONTRIBUTIONS, adjusted for withdrawals (§ 53-19-17 and 53-19-22). Document each member’s contribution and the allocation formula in Exhibit 1 before any Member wires money. Oral understandings about profit splits are NOT enforceable as statutory operating-agreement provisions.

**ARTICLE VIII
LIABILITY SHIELD AND INDEMNIFICATION**

VIII.01 Liability Shield.

Under § 53-19-13, NMSA 1978, Members and Managers are NOT personally liable for the debts, obligations, or liabilities of the Company solely by reason of their status. They remain liable for their own acts or omissions.

VIII.02 Indemnification (§ 53-19-18).

The Articles or this Operating Agreement may provide indemnification and advancement of expenses for Members and Managers against judgments, settlements, penalties, fines, and reasonable expenses incurred in connection with their Company role. The Company shall indemnify:

Indemnification scope:

Exclusions: no indemnification for gross negligence or willful misconduct.

VIII.03 Liability Standard Reminder.

Under § 53-19-16, NMSA 1978, members and managers with management responsibility are liable to the LLC or other Members ONLY for acts or omissions constituting GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, unless the Articles/OA provide otherwise.

VIII.04 Insurance.

The Company may purchase and maintain liability insurance on behalf of any Member, Manager, officer, or agent.

**ARTICLE IX
DISSOLUTION AND WINDING UP**

IX.01 Dissolution Events.

The Company shall dissolve upon (§ 53-19-39, NMSA 1978):

- (a) Events stated in the Articles or this Operating Agreement.
- (b) Written consent of Members holding a majority of voting power (unless this Agreement sets a different threshold).
- (c) Judicial decree under § 53-19-40, NMSA 1978 (not reasonably practicable to carry on business in conformity with Articles or OA).

Members elect the following dissolution threshold:

Dissolution threshold:

IX.02 Judicial Dissolution.

Under § 53-19-40, NMSA 1978, a court may order dissolution when it is not reasonably practicable to carry on the LLC's business in conformity with the Articles or OA. Per Scott v. AZL Resources, Inc. (N.M. S. Ct. 1988), New Mexico courts apply veil-piercing principles when members fail to treat the LLC as a separate entity. Explicit dissolution events and deadlock provisions in this Agreement reduce judicial-dissolution risk.

IX.03 Winding Up and Asset Distribution.

Upon dissolution, the Company shall wind up per § 53-19-44, NMSA 1978: (a) pay creditors; (b) satisfy liabilities to current or former Members; (c) distribute remaining assets to Members in proportion to their Ownership Interest percentages. File Articles of Dissolution with the New Mexico Secretary of State, Business Services Division (§ 53-19-41; fee \$25).

IX.04 Claims Against Dissolved LLC.

Under § 53-19-45, NMSA 1978, a dissolved LLC may give written notice to known claimants. The claim deadline cannot be fewer than 120 DAYS after the effective date of the Articles of Dissolution. If a claim is rejected, the claimant must sue within 90 days after rejection notice.

IX.05 Dispute Resolution and Deadlock.

To resolve disputes or deadlock before judicial dissolution:

Dispute method:

**ARTICLE X
AMENDMENTS**

X.01 Written Amendment Requirement.

Under § 53-19-2(O), NMSA 1978, the operating agreement and all amendments must be in WRITING. Any oral agreement to amend this Agreement is NOT enforceable as a statutory operating agreement amendment.

X.02 Amendment Procedure.

Amendments require approval by the Members at the elected threshold:

Amendment threshold:

X.03 Consistency with Articles.

Any amendment that changes the management structure (member-managed to manager-managed or vice versa) or the single-member designation must also be reflected in an amendment to the Articles of Organization filed with the New Mexico Secretary of State, Business Services Division.

X.04 Records.

Under § 53-19-19, NMSA 1978, the LLC must keep copies of CURRENT AND PRIOR operating agreements and amendments at its principal place of business. All amendments shall be maintained with Company records.

**ARTICLE XI
GENERAL PROVISIONS**

XI.01 Entire Agreement.

This Agreement and the Articles of Organization constitute the entire agreement among the Members with respect to the subject matter hereof and supersede all prior oral, written, and implied arrangements.

XI.02 Severability.

If any provision is found invalid or unenforceable, the remaining provisions continue in full force.

XI.03 Governing Law and Freedom of Contract.

This Agreement shall be governed by the laws of the State of New Mexico, specifically the New Mexico Limited Liability Company Act, Chapter 53, Article 19, NMSA 1978. Under § 53-19-65, NMSA 1978, the policy of the Act is to give maximum effect to the freedom of contract and enforceability of operating agreements.

XI.04 Dispute Resolution.

Disputes shall first be submitted to:

Method:

before commencing litigation. Venue:

Venue:

XI.05 Notices.

All notices shall be in writing and delivered by personal delivery, certified U.S. mail, or e-mail with confirmation.

XI.06 Counterparts and Signatures.

This Agreement may be executed in counterparts, including electronically. New Mexico does not require notarization of an operating agreement. This Agreement is NOT filed with the New Mexico Secretary of State, Business Services Division. Each Member should sign the Agreement; banks routinely request the signed OA before opening a business account.

XI.07 No Third-Party Beneficiaries.

This Agreement is for the sole benefit of the Members and the Company.

XI.08 Further Assurances.

Each Member shall execute additional documents and take actions reasonably necessary to carry out the purposes of this Agreement.

SIGNATURE PAGE

IN WITNESS WHEREOF, all Members have executed this written Operating Agreement as required by § 53-19-2(O), NMSA 1978. New Mexico does not require notarization. This Agreement is NOT filed with the New Mexico Secretary of State, Business Services Division. Maintain this Agreement and all prior versions at the principal place of business (§ 53-19-19).

Company Name:

Effective Date:

Member 1 Signature: _____

Printed Name:

Date:

Address:

Member 2 Signature: _____

Printed Name:

Date:

Address:

Member 3 Signature: _____

Printed Name:

Date:

Address:

(Attach additional signature pages for additional Members.)

EXHIBIT 1
CAPITAL CONTRIBUTIONS AND OWNERSHIP INTERESTS

Company Name:

Member Name	Address	Contribution (\$)	Ownership Interest (%)
<input style="width: 190px; height: 20px;" type="text"/>	<input style="width: 220px; height: 20px;" type="text"/>	<input style="width: 150px; height: 20px;" type="text"/>	<input style="width: 100px; height: 20px;" type="text"/>
<input style="width: 190px; height: 20px;" type="text"/>	<input style="width: 220px; height: 20px;" type="text"/>	<input style="width: 150px; height: 20px;" type="text"/>	<input style="width: 100px; height: 20px;" type="text"/>
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Total Ownership: %

This Exhibit overrides: (1) the value-of-contributions voting default (§ 53-19-17); (2) the value-of-contributions profit/loss default (§ 53-19-22); and (3) the value-of-contributions distribution default (§ 53-19-23). New Mexico defaults are NOT one-member-one-vote and NOT automatic “ownership percentage.”

LEGAL DISCLAIMER

This Multi-Member (Member-Managed) Operating Agreement template for a New Mexico limited liability company is provided by Boost Suite for informational and educational purposes only. It does not constitute legal advice and does not create an attorney-client relationship. Boost Suite is not a law firm. This template is based on the New Mexico Limited Liability Company Act, Chapter 53, Article 19, NMSA 1978, including NMSA 1978 §§ 53-19-2(O), 53-19-5, 53-19-7, 53-19-8, 53-19-9, 53-19-10, 53-19-13, 53-19-15, 53-19-16, 53-19-17, 53-19-18, 53-19-19, 53-19-21, 53-19-22, 53-19-23, 53-19-24, 53-19-25, 53-19-26, 53-19-32, 53-19-33, 53-19-35, 53-19-36, 53-19-37, 53-19-38, 53-19-39, 53-19-40, 53-19-41, 53-19-44, 53-19-45, 53-19-46, 53-19-63, 53-19-65, 53-19-66.1, and 53-19-66.2. Laws change; Boost Suite does not guarantee that this template reflects the most current version of New Mexico law. LLCs with complex structures should have this Agreement reviewed by a licensed New Mexico attorney before execution.

Your New Mexico LLC Resources:

- <https://boostsuite.com/llc-operating-agreement/new-mexico/>
- <https://boostsuite.com/how-to-start-an-llc/new-mexico/>
- <https://boostsuite.com/how-to-start-an-llc/cost/new-mexico/>

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