

## AMENDMENT NO. 3 TO OPERATING AGREEMENT

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This Amendment No. 3 to the Operating Agreement (the "Amendment") is made as of this 08 day of January, 2018, by and between Jesse L Melvin, located at 2036 Kyle Street, Scottsbluff, NE 69361 ("JLM") and Kyle J Delgado, located at 2036 Kyle Street, Scottsbluff, NE 69361 ("KJD") (each, a "Member" and collectively, the "Members").

WHEREAS, the Members formed a limited liability company under the name ABC, LLC. pursuant to an Operating Agreement dated as of January 08, 2017, and any amendments thereto (the "Operating Agreement").

WHEREAS, the Members now wish to amend certain provisions of the Operating Agreement.

NOW THEREFORE, in consideration of the premises and mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Members agree as follows:

1. Article 2 of the Operating Agreement is hereby deleted in its entirety.
2. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Operating Agreement.
3. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which together, shall constitute one and the same document.
4. The terms of this Amendment shall be governed by and construed in accordance with the laws of the State of Nebraska, not including its conflicts of law provisions.
5. Except as otherwise modified and amended herein, the Operating Agreement remains unchanged and continues in full force and effect.

**IN WITNESS WHEREOF**, this Amendment No. 3 to the Operating Agreement has been executed and delivered as of the date first written above.

### SIGNATURES

_____	_____
Member Signature	Jesse L Melvin Member Full Name

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<b>Member</b> Signature	Kyle J Delgado <b>Member</b> Full Name

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## GENERAL INSTRUCTIONS

### WHAT IS AN AMENDMENT TO LLC OPERATING AGREEMENT?

The Limited Liability Company Operating Agreement is an internal written document that defines each owner's responsibility with regard to the business, as well as detailing how decisions will be made and profits distributed. An amendment to this agreement is an internal, written document that identifies which sections of the original agreement will be modified or removed, or new sections to be added. Before creating the amendment, review the original operating agreement to assure that it can be amended by the owners, and if there are any limitations for creating an amendment. For example, the original operating agreement might state that it:

- Cannot be amended; or
- Can only be amended by unanimous vote of the owners; or can be amended by a majority (simple, 2/3rds, etc.) vote of the owners; or
- Can only be amended after the first year (or other time frame) of operations

Any limits or procedural requirements must be followed for the amendment to be legally binding.

### WHAT SHOULD BE INCLUDED?

A simple Operating Agreement Amendment will identify:

- **Owners:** the name of each person who owns the company
- **LLC Name:** the legal name of the company along with any Doing Business As (DBA) Names
- **Date of the original LLC Operating Agreement**
- **Amended and Eliminated Sections:** the specific sections of the agreement being changed and removed
- **New Sections:** the specific sections being added to the agreement
- **Signatures:** the signatures of all owners signifying their acceptance of the amendment

Other useful details to include:

- **Governing Law**
- **Original Agreement:** the non-modified terms of the original agreement are still in full force and effect.
- **Counterparts:** when the owners cannot gather to sign the document, separate signature pages, or counterparts, may be used to complete the amendment process

## WHEN IS IT NEEDED?

Owners should amend their LLC Operating Agreement when its terms no longer reflect the responsibilities of its members, operations of the business, or asset contributions. Over time, the roles of specific owners are likely to change due to growth, shift in business focus, or skill set. As the business grows, a more formal, hierarchical structure may be best for managing day-to-day operations and long-term development. Also, some owners may invest additional capital into the company to support operations, and their individual investment must be acknowledged and protected. As these situations arise, an amendment to the original agreement is necessary.

### THE CONSEQUENCES OF NOT USING THIS DOCUMENT

An LLC Operating Agreement Amendment is essential to reflect the current operations of the company, as well as the responsibilities and ownership shares of the business members. In the absence of an amendment, the original operating agreement stands as the valid contract between the parties, and only the terms included in that agreement will be applied to disperse profits or make management decisions. In this situation, new partners will not be entitled to any assets if the business is dissolved, and those partners who invested additional funds or assets will not receive compensation commensurate with their contributions. In addition, former owners could legally be entitled to receive the share of assets they were assigned in the original agreement, despite their absence from the company.

The LLC is more likely to fail or be dissolved in situations where the original LLC Operating Agreement does not reflect current ownership structures and member responsibilities. Without an amendment other issues, such as leadership shifts and profit sharing changes, cannot be enforced in a court of law. Disputes between owners will only be settled as per the original agreement, regardless of whether current operations are inconsistent with that document. The LLC Operating Agreement Amendment is most often used when:

- An owner leaves the business
- A new owner is added to the business
- There is a change in the timing of distributions
- There is a change in the percentage allocations of distributions
- Additional capital is invested in the business
- There is a change in voting rules in general or for specific decisions, i.e. unanimous consent or majority vote
- Other managerial or financial changes that differ from the original Operating Agreement