

## WHY YOUR LLC NEEDS A WRITTEN OPERATING AGREEMENT

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Without a written operating agreement to the contrary, the North Carolina LLC statute provides "default" rules governing NC LLCs that can easily lead to unintended results. Here is a comparison of just a few of the key differences between the NC statutory default provisions and the benefits of a written operating agreement:

<b>NC Statutory Default</b>	<b>Written Operating Agreement</b>
One member, one vote, regardless of ownership percentages. (NCGS §57C-3-20)  Result: A majority owner can be outvoted by two members holding a combined minority interest.	Majority of ownership interest rules.
Unanimous consent of all members required to: *Amend an operating agreement *Admit another person as a member *Sell LLC assets (NCGS §57C-3-03)  Result: One uncooperative member can veto changes to the LLC.	Provides flexibility on which LLC decisions require simple majority in interest, supermajority or unanimity. "Drag-Along" rights can require a member to agree to sale of LLC assets.
Member's executor/guardian can exercise deceased/incompetent member's rights (NCGS §57C-5-05)  Result: Outsiders can meddle in an LLC's operations.	Buy-sell provisions can protect remaining members from intrusion in the LLC by outsiders such as executors, guardians, divorced spouses, creditors.
No voluntary withdrawal from membership in the LLC allowed (NCGS §57C-5-06)  Result: A member can be stuck in an LLC with no way out.	"Puts" and "calls" can require a buy out of a member's interest and provide an exit.
Voluntary dissolution on the written consent of all members (NCGS §57C-6-01)  Result: One uncooperative member can veto voluntary dissolution of the LLC.	Dissolution on the occurrence of events specified in the written operating agreement.
Judicial dissolution by member for cause only (ex. deadlock, irreparable injury, assets wasted) (NCGS §57C-6-02(2))  Result: Potentially heavy evidentiary burden on a member seeking dissolution of the LLC.	Judicial dissolution by member for any reason provided in the written operating agreement.

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