

**ONEIDA INDIAN NATION
LIMITED LIABILITY COMPANY CODE**

TABLE OF CONTENTS

CHAPTER 1-SHORT TITLE AND DEFINITIONS

101.	Short title	1
102.	Definitions	1

CHAPTER 2-FORMATION

201.	Purpose.	5
202.	Powers.	5
203.	Formation.	7
204.	Limited liability company name.	8
205.	Reservation of name.	9
206.	Articles of organization.	10
207.	Execution of articles or certificates.	11
208.	Execution, amendment or cancellation by judicial act.	12
209.	Filing with the Nation Clerk.	12
210.	Liability for false statement in articles or certificates.	13
211.	Amendment of articles of organization.	13
212.	Certificate of correction.	15
213.	Authorization of amendment of articles of organization.	15
214.	Restated articles of organization.	16

CHAPTER 3-SERVICE OF PROCESS

301.	Statutory designation of Nation Clerk as agent for service of process.	17
302.	Registered agent for service of process.	17
303.	Service of process on limited liability companies.	19
304.	Service of process on unauthorized foreign limited liability companies.	20
305.	Records of process served on the Nation Clerk.	21

CHAPTER 4-MANAGEMENT BY MEMBERS OR MANAGERS

401.	Management of the limited liability company by members.	22
402.	Voting rights of members.	22
403.	Meetings of members.	23
404.	Quorum of members.	23
405.	Notice of meetings of members.	24
406.	Waiver of notice.	24

407.	Action by members without a meeting.	25
408.	Management by managers.	25
409.	Duties of managers.	26
410.	Qualification of managers.	27
411.	Interested managers.	27
412.	Agency of members or managers.	28
413.	Election and term of managers.	29
414.	Removal or replacement of managers.	29
415.	Resignation of managers.	29
416.	Vacancies.	29
417.	Operating agreement.	30
418.	Classes and voting of members.	31
419.	Classes and voting of managers.	31
420.	Indemnification.	32

CHAPTER 5-CONTRIBUTIONS AND DISTRIBUTIONS

501.	Form of capital contributions.	33
502.	Liability for contributions.	33
503.	Sharing of profits and losses.	34
504.	Sharing of distributions.	34
505.	Distributions in kind.	34
506.	Right to distribution.	34
507.	Interim distributions.	35
508.	Limitations on distributions.	35
509.	Distribution upon withdrawal.	35

CHAPTER 6-MEMBERS AND MEMBERSHIP

601.	Nature of membership interest.	36
602.	Admission of members.	36
603.	Assignment of membership interest.	37
604.	Rights of assignee to become a member.	37
605.	Liability upon assignment.	38
606.	Withdrawal of a member.	38
607.	Rights of creditors of members.	39
608.	Powers of estate of a deceased or incompetent member.	39
609.	Liability of members, managers and agents.	39
610.	Parties to actions.	40
611.	Business transactions of a member with the limited liability company.	40

CHAPTER 7-DISSOLUTION

701.	Dissolution.	41
702.	Judicial dissolution.	41
703.	Winding up.	42
704.	Distribution of assets.	42
705.	Articles of dissolution.	43

CHAPTER 8-FOREIGN LIMITED LIABILITY COMPANIES

801.	Governing law.	44
802.	Application for authority.	44
803.	Activities not constituting doing business.	45
804.	Amendments to application for authority.	46
805.	Issuance of certificate of authority; effect.	46
806.	Surrender of certificate of authority.	47
807.	Termination of existence.	48
808.	Doing business without certificate of authority.	48
809.	Action by Nation Prosecutor.	49

CHAPTER 10-MERGERS

1001.	Merger or consolidation.	50
1002.	Procedures for merger or consolidation.	50
1003.	Certificate of merger or consolidation; contents.	52
1004.	Effect of merger or consolidation.	54
1005.	Payment of interest of dissenting members.	55
1006.	Conversion of partnership or limited partnership to limited liability company.	55
1007.	Effect of conversion.	57

CHAPTER 11-MISCELLANEOUS

1101.	Fees.	58
1102.	Records.	59
1103.	Transactions of business outside the Nation.	60
1104.	Limited liability companies prohibited from interposing defense of usury.	60

CHAPTER 12-PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

1201.	Definitions.	61
-------	--------------	----

1202. Limited liability companies organized under other provisions of law.	61
1203. Formation.	62
1204. Rendering of professional service.	64
1205. Professional relationships and liabilities.	65
1206. Purposes of formation.	65
1207. Membership of professional service limited liability companies.	66
1209. Disqualification of members, managers and employees.	67
1210. Death, disqualification or dissolution of members.	67
1211. Transfer of a membership interest.	69
1212. Limited liability company name.	70
1213. Limited liability company act applicable.	70
1214. Mergers and consolidations.	70

CHAPTER 13-FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

1301. Definitions.	72
1302. Rendering of professional service.	73
1303. Professional relationships and liabilities.	74
1304. Foreign professional service limited liability company.	75
1305. Limited liability company act applicable.	75
1306. Filing requirements.	75
1308. Regulation of professions.	77
1309. Licensing of individuals.	78

CHAPTER 1-SHORT TITLE AND DEFINITIONS

101. SHORT TITLE

This Code shall be known as the "Oneida Indian Nation Limited Liability Company Code."

102. DEFINITIONS

- (a)"Articles of organization" means the articles of organization filed with the Nation Clerk for the purpose of forming a limited liability company pursuant to section two hundred three of this Code, as amended or restated pursuant to section two hundred eleven or section two hundred fourteen of this Code.
- (b)"Authorized foreign limited liability company" means a foreign limited liability company authorized to do business in this Nation pursuant to chapter eight of this Code.
- (c)"Authorized person" means a person, whether or not a member, who is authorized by the operating agreement, or otherwise, to act on behalf of a limited liability company or foreign limited liability company.
- (d)"Bankruptcy" means bankruptcy under the laws of the Oneida Indian Nation or the United States Bankruptcy Code, as amended, or insolvency under any state insolvency act.
- (e)"Business" means every trade, occupation, profession or commercial activity.
- (f)"Contribution" means any cash, property, services rendered, or promissory note or other binding obligation to contribute cash or property or to render services that a member contributes to a limited liability company in his or her capacity as a member.
- (g)"Corporation" means a corporation formed under the laws of the Oneida Indian Nation, or a foreign corporation as defined in subdivision (j) of this section.
- (h)"Court" means the Oneida Nation Court.
- (i)"Distribution" means the transfer of property by a limited liability company to one or more of its members in his or her capacity as a member.
- (j)"Foreign corporation" means a corporation formed under the laws of any jurisdiction, including any foreign country, other than the laws of this Nation.
- (k)"Foreign limited liability company" means an unincorporated organization formed under the laws of any jurisdiction, including any foreign country, other than the laws of the

Oneida Indian Nation (i) that is not authorized to do business in the Oneida Indian Nation under any other law of the Nation and (ii) of which some or all of the persons who are entitled (A) to receive a distribution of the assets thereof upon the dissolution of the organization or otherwise or (B) to exercise voting rights with respect to an interest in the organization have, or are entitled or authorized to have, under the laws of such other jurisdiction, limited liability for the contractual obligations or other liabilities of the organization.

- (l)"Foreign limited liability partnership" has the meaning given to it in the Partnership Code.
- (m)"Foreign limited partnership" means a partnership that is formed under the laws of any jurisdiction, including any foreign country, other than the laws of the Oneida Indian Nation and that has as partners one or more general partners and one or more limited partners.
- (n)"Foreign related limited liability partnership" has the meaning given to it in of the partnership Code.
- (o)"Licensing Authority" means, for the purposes of this Code, the State of New York.
- (p)"Limited liability company" and "domestic limited liability company" mean, unless the context otherwise requires, an unincorporated organization of one or more persons having limited liability for the contractual obligations and other liabilities of the business (except as authorized in section six hundred nine of this Code), other than a partnership or trust, formed and existing under this Code and the laws of the Nation.
- (q)"Limited partnership" means a limited partnership formed under the laws of the Oneida Indian Nation or a foreign limited partnership as defined in subdivision (l) of this section.
- (r)"Majority in interest of the members" means, unless otherwise provided in the operating agreement, the members whose aggregate share of the current profits of the limited liability company constitutes more than one-half of the aggregate of such shares of all members.
- (s)"Manager" means, subject to section four hundred one of this Code, a person designated by the members to manage the limited liability company as provided in the operating agreement.
- (t)"Member" means a person who has been admitted as a member of a limited liability company in accordance with the terms and provisions of this Code and the operating agreement and has a membership interest in a limited liability company with the rights, obligations, preferences and limitations specified under this Code and the operating agreement.

- (u) "Membership interest" means a member's aggregate rights in a limited liability company, including, without limitation, the member's right to a share of the profits and losses of the limited liability company, the right to receive distributions from the limited liability company and the right to vote and participate in the management of the limited liability company.
- (v) "Nation" means the Oneida Indian Nation.
- (w) "Office of the limited liability company" means the office of the limited liability company, the location of which is stated in the articles of organization of a domestic limited liability company, or in the application for authority of a foreign limited liability company. Such office need not be a place where business activities are conducted by such limited liability company.
- (x) "Oneida Indian Nation Clerk" and "Nation Clerk" mean the Clerk of the Oneida Indian Nation.
- (y) "One-third in interest of the members" means, unless otherwise provided in the operating agreement, the members whose aggregate share of the current profits of the limited liability company constitutes one-third of the aggregate of such shares of all members.
- (z) "Operating agreement" means any written agreement of the members concerning the business of a limited liability company and the conduct of its affairs and complying with section four hundred seventeen of this Code.
- (aa) "Other business entity" means any person other than a natural person or domestic limited liability company.
- (bb) "Person" means any association, corporation, joint stock company, estate, general partnership (including any registered limited liability partnership or foreign limited liability partnership), limited association, limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, real estate investment trust, business trust or other trust, custodian, nominee or any other individual or entity in its own or any representative capacity.
- (cc) "Process" means judicial process and all orders, demands, notices or other papers required or permitted by law to be personally served on a limited liability company or foreign limited liability company, for the purpose of acquiring jurisdiction of such limited liability company in any action or proceeding, civil or criminal, whether judicial, administrative, arbitative or otherwise, in the Oneida Indian Nation.

- (dd)"Profession" has the meaning given to it in subdivision (b) of section twelve hundred one of this Code.
- (ee)"Professional service limited liability company" has the meaning given to it in subdivision (a) of section thirteen hundred one of this Code.
- (ff)"Registered limited liability partnership" has the meaning given to it in the partnership Code.
- (gg)"State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.
- (hh)"Two-thirds in interest of the members" means, unless otherwise provided in the operating agreement, the members whose aggregate share of the current profits of the limited liability company constitutes two-thirds of the aggregate of such shares of all members.
- (ii)"Uniform Commercial Code" means, when not referring to the Oneida Indian Nation Uniform Commercial Code, the current version of the Uniform Commercial Code utilized by the State of New York.

CHAPTER 2-FORMATION

201. PURPOSE

A limited liability company may be formed under this Code for any lawful business purpose or purposes except to do in the Nation any business for which another statute specifically requires some other business entity or natural person to be formed or used for such business.

202. POWERS

Unless the articles of organization provide otherwise and subject to any limitations provided in this Code or any other law of the Nation, a limited liability company may:

- (a) sue or be sued, or institute, participate in or defend any action or proceeding, whether judicial, arbitral, administrative or otherwise, in its name;
- (b) purchase, take, receive, lease or otherwise acquire, own, hold, improve, use or otherwise deal in or with real or personal property or an interest in real or personal property, wherever situated;
- (c) sell, convey, assign, encumber, mortgage, pledge, lease, exchange, transfer, create a security interest in or otherwise dispose of all or part of its property or assets;
- (d) purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, employ, sell, mortgage, lend, pledge or otherwise dispose of and otherwise use and deal in and with shares or other interests in, securities issued by and direct or indirect obligations of:
 - (1) other persons; or
 - (2) any Indian Nation, government, state, territory, governmental district or municipality or of any instrumentality or subdivision of any of them;
- (e) make contracts, including, but not limited to, contracts of guaranty and suretyship, incur liabilities, borrow money at such rates of interest as the limited liability company may determine, issue its notes, bonds or other obligations, secure any of its obligations by mortgage, pledge or other encumbrance of all or any part of its property, franchises and income, make contracts of guaranty and suretyship that are necessary or convenient to the conduct, promotion or attainment of the business of (i) a limited liability company or other person at least a majority of the outstanding membership or other ownership interests of which are owned, directly or indirectly, by the contracting limited liability company, (ii) a limited liability company or other person that owns, directly or indirectly, at least a majority of the outstanding membership interests of the contracting limited liability company or (iii) a limited liability company or other person at least a

majority of the outstanding membership or other ownership interests of which are owned, directly or indirectly, by a limited liability company or other person that owns, directly or indirectly, at least a majority of the outstanding membership interests of the contracting limited liability company, which contracts of guaranty and suretyship shall be deemed to be necessary or convenient to the conduct, promotion or attainment of the business of the contracting limited liability company and make other contracts of guaranty and suretyship that are necessary or convenient to the conduct, promotion or attainment of the business of the contracting limited liability company. A limited liability company may make any contracts of guaranty and suretyship that are not necessary or convenient to the conduct, promotion or attainment of the business of the contracting limited liability company upon the vote of the percentage in interest of the members or class or classes of members provided in the operating agreement, or if no such percentage is so stated, upon the vote of a majority in interest of the members entitled to vote thereon; provided, however, that the operating agreement may provide that no such vote is required;

- (f) lend money for any lawful purpose, invest or reinvest its funds, or take and hold real or personal property as security for the payment of funds so loaned or invested;
- (g) conduct its business, carry on its operations, maintain offices and exercise the powers granted by this Code in any state, foreign country or other jurisdiction;
- (h) select or appoint managers, employees and agents of the limited liability company, define their duties and fix their compensation;
- (i) assist, lend money to and transact other business with a member, manager, agent or employee of such limited liability company;
- (j) make and alter its operating agreement, not inconsistent with its articles of organization or with the laws of this state, concerning the business of the limited liability company and the conduct of its affairs;
- (k) indemnify a member or manager or any other person;
- (l) pay pensions and establish pension plans, pension trusts, profit-sharing plans, profit-sharing trusts, equity bonus plans, equity option plans and other incentive plans for any of its members, managers, employees, agents or consultants or any of the directors, officers, managers, employees, agents or consultants or its affiliates;
- (m) make donations for the public welfare or for charitable, scientific, religious, civic, educational or similar purposes;
- (n) transact any lawful business in aid of governmental policy;

- (o) be a promoter, shareholder, general partner, limited partner, member, associate or manager of any association, corporation, partnership, limited partnership, limited liability company, joint venture, trust or other entity or enterprise;
- (p) cease its activities, cancel its articles of organization or dissolve and;
- (q) have and exercise all powers, in addition to those set forth in subdivisions (a) through (p) of this section, not inconsistent with law, necessary or convenient to effect any or all of the purposes for which the limited liability company is formed.

203. FORMATION

- (a) One or more persons may act as an organizer or organizers to form a limited liability company by (i) preparing the articles of organization of such limited liability company in accordance with section two hundred six of this Code, (ii) executing such articles of organization in accordance with section two hundred seven of this Code and (iii) filing such articles entitled "Articles of organization of...(name of limited liability company) under section two hundred three of the Limited Liability Company Code," in accordance with section two hundred nine of this Code.
- (b) An organizer may, but need not be, a member of the limited liability company that he or she forms.
- (c) At the time of its formation, a limited liability company must have at least one member.
- (d) A limited liability company is formed at the time of the filing of the initial articles of organization with the Nation Clerk or at any later time specified in the articles of organization, not to exceed sixty days from the date of such filing. The filing of the articles of organization shall, in the absence of actual fraud, be conclusive evidence of the formation of the limited liability company as of the time of filing or effective date if later, except in an action or special proceeding brought by the Nation Prosecutor. A limited liability company formed under this Code shall be a separate legal entity, the existence of which as a separate legal entity shall continue until the cancellation of the limited liability company's articles of organization.

204. LIMITED LIABILITY COMPANY NAME

The name of each limited liability company as set forth in its articles of organization:

- (a) shall contain without abbreviation the words "Limited Liability Company" or the abbreviation "L.L.C." or "LLC";
- (b) shall be such as to distinguish it from the name of (i) any domestic limited liability company, (ii) any authorized foreign limited liability company or (iii) a fictitious name

of an authorized foreign limited liability company filed pursuant to section eight hundred two of this Code, in each case, as such names appear on the index of names of existing domestic and authorized foreign limited liability companies of any type or kind, including fictitious names of authorized foreign limited liability companies filed pursuant to section eight hundred two of this Code, with the Nation Clerk, or names the right to which are reserved;

- (c) shall be the name used by the limited liability company in its conduct of business;
- (d) shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statute of the Nation, unless in the latter case the restrictions have been complied with;
- (e) shall not contain the following phrases or any abbreviation or derivative thereof:

board of trade	Oneida Indian Nation police
chamber of commerce	Oneida
community renewal	Oneida Indian Nation
corporation	tenant relocation
incorporated	urban development
partnership	urban relocation
	Nation

- (f) shall not contain the following words, or any abbreviation or derivative thereof:

acceptance	guaranty
annuity	indemnity
assurance	insurance
attorney	investment
bank	lawyer
benefit	loan
bond	mortgage
casualty	savings
doctor	surety
endowment	title
fidelity	trust
finance	underwriter

unless the approval of the Nation Clerk is attached to the articles of organization or unless the word "doctor" or "lawyer" or an abbreviation or derivative thereof is used in a context that clearly denotes a purpose other than the practice of law or medicine;

- (g) shall not, unless the approval of the Nation Clerk is attached to the articles of organization or application for authority, contain the word "blind" or "handicapped."

- (h) shall not, unless the approval of the Nation Clerk is attached to the articles of organization or application for authority, contain the word "exchange" or any abbreviation or derivative thereof. Such approval shall not be granted by the Nation Clerk if in his or her opinion the use of the word "exchange" in the limited liability company's proposed name would falsely imply that the limited liability company conducts its business at a place where trade is carried on in securities or commodities by brokers, dealers, or merchants.

205. RESERVATION OF NAME

- (a) Subject to section two hundred four of this Code, the exclusive right to the use of a name may be reserved by:
 - (1) any person intending to form or cause the formation of a domestic limited liability company under this Code;
 - (2) any domestic limited liability company or any authorized foreign limited liability company intending to change its name;
 - (3) any foreign limited liability company intending to apply for authority to do business in the Nation and to adopt that name; and
 - (4) any person intending to form a foreign limited liability company and intending to have it apply for authority to do business in the Nation.
- (b) A fictitious name for use pursuant to section eight hundred two of this Code may be reserved by:
 - (1) and foreign limited liability company intending to apply for authority to do business in the Nation pursuant to section eight hundred two of this Code;
 - (2) any authorized foreign limited liability company intending to change the fictitious name under which it does business in the Nation; and
 - (3) any authorized foreign limited liability company that has changed its name in its jurisdiction, such new name not being available in the Nation.
- (c) Application to reserve a limited liability company name shall be delivered to the Nation Clerk. It shall set forth the name and address of the applicant, the name to be reserved and a statement of the basis for the application under subdivision (a) or (b) of this section. The Nation Clerk may require that there be included in the application a statement as to the nature of the business to be conducted by the limited liability company it being sufficient to state, either alone, or with other purposes, that the limited

liability company intends to conduct any lawful act or activity for which limited liability companies may be formed under this Code. If the name is available for use by the applicant for a limited liability company, the Nation Clerk shall reserve the name for the use of the applicant for a period of sixty days and issue a certificate of reservation. The restrictions and qualifications set forth in section two hundred four of this Code are not waived by the issuance of a certificate of reservation. The certificate of reservation shall include the name of the applicant, the name reserved and the date of reservation. The certificate of reservation (or in lieu thereof an affidavit by the applicant or by his or her agent or attorney that the certificate of reservation has been lost or destroyed) shall accompany the articles of organization or the application for authority when either is delivered to the Nation Clerk. The Nation Clerk may extend the reservation for additional periods of not more than sixty days each, upon the written request of the applicant or his or her attorney in fact or agent delivered to the Nation Clerk and filed before expiration of the reservation period then in effect. Such request shall have attached to it the certificate of reservation. No more than two such extensions shall be granted.

206. ARTICLES OF ORGANIZATION

- (a) The articles of organization of a limited liability company shall set forth:
- (1) the name of the limited liability company;
 - (2) the address where the office of the limited liability company is to be located;
 - (3) if the limited liability company is to have specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this Code, the latest date on which the limited liability company is to dissolve;
 - (4) a designation of the Nation Clerk as agent of the limited liability company upon whom process against it may be served and the post office address within or without this state to which the Nation Clerk shall mail a copy of any process against the limited liability company served upon him or her;
 - (5) if the limited liability company is to have a registered agent, its name and address within the territorial jurisdiction of the Nation and a statement that the registered agent is to be the agent of the limited liability company upon whom process against it may be served;
 - (6) whether the limited liability company is to be managed by one or more members or a class or classes of members or by one or more managers or a class or classes of managers;
 - (7) if all or specified members are to be liable in their capacity as members for all or

specified debts, obligations or liabilities of the limited liability company as authorized pursuant to section six hundred nine of this Code, a statement that all or specified members are so liable for such debts, obligations or liabilities in their capacity as members of the limited liability company as authorized pursuant to section six hundred nine of this Code; and

- (8) any other provisions, not inconsistent with law, that the members elect to include in the articles of organization for the regulation of the internal affairs of the limited liability company, including, but not limited to, (A) the business purpose for which the limited liability company is formed, (B) a statement of whether there are limitations on the authority of members or managers or a class or classes thereof to bind the limited liability company and (C) any provisions that are required or permitted to be included in the operating agreement of the limited liability company pursuant to section four hundred seventeen of this Code.

(b) In order for a limited liability company to exercise the powers enumerated in this Code, it is not necessary to set forth such powers in its articles of organization.

207. EXECUTION OF ARTICLES OR CERTIFICATES

- (a) Each article or certificate required by this Code to be filed with the Nation Clerk shall be executed in the following manner:
 - (1) the initial articles of organization must be signed by an organizer or organizers of the limited liability company;
 - (2) a certificate of amendment must be signed by at least one member, manager or authorized person of the limited liability company;
 - (3) restated articles of organization or amended and restated articles of organization must be signed by at least one member, manager or authorized person of the limited liability company;
 - (4) a certificate of correction must be signed by at least one member, manager or authorized person of the limited liability company;
 - (5) a certificate of cancellation must be signed by at least one member, manager or authorized person of the limited liability company;
 - (6) all other certificates must be signed by at least one member, manager or authorized person of the limited liability company.
- (b) Any person may sign any articles or certificate by an attorney in fact. Powers of attorney relating to the signing of articles or a certificate by an attorney in fact need not be filed

with the Nation Clerk or provided as evidence of authority by the person filing but must be retained in the records of the limited liability company.

- (c) Each article or certificate must be signed and verified or affirmed under penalties of perjury.
- (d) Each article or certificate must be dated, and the name and capacity of each signer must be stated beneath or opposite his or her signature.

208. EXECUTION, AMENDMENT OR CANCELLATION BY JUDICIAL ACT

If a person required by section two hundred seven of this Code to execute articles or a certificate fails or refuses to do so, any member or any permitted assignee of a membership interest who is adversely affected by such failure or refusal may petition the court to direct the execution of such articles or certificate. If the court finds that such articles or certificate should be executed and that such person has failed or refused to execute such articles or certificate, it shall order such person to file the appropriate articles or certificate.

209. FILING WITH THE NATION CLERK

A signed articles of organization and any signed certificate of amendment or other certificates filed pursuant to this Code or of any judicial decree of amendment or cancellation shall be delivered to the Nation Clerk. If the instrument that is delivered to the Nation Clerk for filing complies as to form with the requirements of law and the filing fee required by any statute of the Nation in connection therewith has been paid, the instrument shall be filed and indexed by the Nation Clerk. The Nation Clerk shall not review such articles or certificates for legal sufficiency; its review shall be limited to determining that the form has been completed.

210. LIABILITY FOR FALSE STATEMENT IN ARTICLES OR CERTIFICATES

- (a) If any articles of organization, certificate of amendment or other certificate filed pursuant to this Code contains a materially false statement, one who suffers loss by reasonable reliance on the statement may recover damages for the loss from:
 - (1) any person who executes the articles of organization or certificate, or caused another to execute it on his or her behalf, and knew, and any manager who knew of the filing of such articles or certificate and who knew or should have known with the exercise of reasonable care and diligence, the statement to be false in any material respect at the time the articles or certificates was executed; and
 - (2) any manager who thereafter knows of the filing of such articles or certificate and who knows or should have known with the exercise of reasonable care and diligence that any arrangement or other fact described in such articles or certificate has changed, making the statement false in any material respect.

- (b) Notwithstanding paragraph two of subdivision (a) of this section, no person shall have any liability for failing to cause the amendment or cancellation of the articles of organization or a certificate to be filed or failing to file a petition for its amendment or cancellation, if the articles of organization certificate or petition is filed within ninety days of the time when that person knew or should have known that the statement in the articles of organization or certificate was false in any material respect.

211. AMENDMENT OF ARTICLES OF ORGANIZATION

- (a) A limited liability company may amend its articles of organization from time to time, in any and as many respects as may be desired by (i) preparing a certificate of amendment, entitled "Certificate of amendment of the articles of organization of...(name of the limited liability company) under section two hundred eleven of the Limited Liability Company Code," in accordance with this section, (ii) executing such certificate of amendment in accordance with section two hundred seven of this Code and (iii) filing such certificate of amendment in accordance with section two hundred nine of this Code.
- (b) The certificate of amendment may set forth only such provisions as might be lawfully contained in the initial articles of organization filed at the time of making such amendment.
- (c) The certificate of amendment shall set forth:
 - (1) the name of the limited liability company and, if it has been changed, the name under which it was formed;
 - (2) the date of filing its initial articles or organization; and
 - (3) each amendment effected thereby, setting forth the subject matter of each provision of the articles of organization that is to be amended or eliminated and the full text of the provision or provisions, if any, which are to be substituted or added.
- (d) In particular, but without limiting the general power of amendment as stated in subdivision (b) of this section, a limited liability company shall amend its articles of organization no later than ninety days after the happening of any of the following events:
 - (1) a change in the name of the limited liability company;
 - (2) a change in address in which the office of the limited liability company is to be located;

- (3) a change in the latest date, if any, on which the limited liability company is to dissolve;
- (4) the continuation of the limited liability company under section seven hundred one of this Code after an event of dissolution;
- (5) a change in the name or street address of its registered agent if such change is made other than pursuant to section three hundred two of this Code;
- (6) a change in the post office address to which the Nation Clerk shall mail a copy of any process against the limited liability company served upon him or her if such change is made other than pursuant to section three hundred one of this Code;
- (7) a change in whether the limited liability company is to be managed by one or more members of a class or classes of members or by one or more managers or a class or classes of managers;
- (8) the discovery of a materially false or inaccurate statement in the articles of organization; and
- (9) the decision to change any other statement in the articles of organization.

(e) Unless otherwise provided in this Code, a certificate of amendment shall be effective at the time of its filing with the Nation Clerk.

212. CERTIFICATE OF CORRECTION

The articles of organization, and certificate or any other instrument relating to a domestic or foreign limited liability company filed with the Nation Clerk under this Code may be corrected with respect to any informality or error apparent on the face, incorrect statement or defect in the execution thereof, including the deletion of any matter not permitted to be stated therein. A certificate, entitled "Certificate of correction of....(title of articles or certificate and name of limited liability company) under section two hundred twelve of the Limited Liability Company Code," shall be signed, verified and delivered to the Nation Clerk. It shall set forth the name of the limited liability company, the date the articles or certificate to be corrected was filed by the Nation Clerk, a statement as to the nature of the informality, error, incorrect statement or defect, the provision in the articles or certificate as corrected or eliminated and, if the execution was defective, the proper execution. The filing of the certificate of correction with the Nation Clerk shall not alter the effective date of the instrument being corrected and shall not affect any right or liability accrued or incurred before such filing. A name of a limited liability company may not be changed or corrected pursuant to this section.

213. AUTHORIZATION OF AMENDMENT OF ARTICLES OF ORGANIZATION

- (a) Except as provided in the operating agreement, an amendment of the articles of organization shall be authorized by at least a majority in interest of the members entitled to vote thereon.
- (b) Notwithstanding subdivision (a) of this section, unless the operating agreement provides otherwise (including, but not limited to, by restricting or enlarging the management powers or responsibilities of one or more managers or classes of managers), if the limited liability company is managed by one or more managers then any of the following amendments may be authorized by a majority of such managers:
 - (1) to change the name or street address of the registered agent, if any, of the limited liability company in the state;
 - (2) to change the post office address of the registered agent, if any, of the limited liability company in the state;
 - (3) to correct any error in the articles of organization pursuant to section two hundred twelve of this Code.

214. RESTATED ARTICLES OF ORGANIZATION

- (a) A limited liability company may at any time, and from time to time, restate in a single instrument the text of its articles of organization, without making any amendment thereby. Alternatively, a limited liability company may restate in a single instrument the text of its articles of organization and as amended thereby to effect any one or more of the amendments authorized by this Code.
- (b) The restated or amended and restated articles of organization, as the case may be, shall be executed in accordance with section two hundred seven of this Code.
- (c) The restated articles of organization shall be filed with the Nation Clerk in accordance with section two hundred nine of this Code and shall set forth:
 - (1) the name of the limited liability company and, if it has been changed, the name under which it was formed;
 - (2) the date of filing of its articles of organization; and
 - (3) if the restated articles of organization restate the text of the articles of organization without making any amendments, then a statement that the text of the articles of organization is thereby restated without amendment to read as therein set forth in full; or

- (4) if the restated articles restate the text of the articles of organization, and is amended thereby, then a statement that the articles of organization is amended to effect one or more of the amendments authorized by this Code, specifying each such amendment and that the text of the articles of organization is thereby restated as amended to read as therein set forth in full.
- (d) Any amendments effected in connection with the restatement of the articles of organization shall be subject to any other provisions of this Code, including, but not limited to, section two hundred thirteen of this Code, that would apply if a separate certificate of amendment were filed to effect such amendment.
- (e) Unless otherwise provided in this Code, the restated or amended and restated articles of organization, as the case may be, shall be effective at the time of its filing with the Nation Clerk.

CHAPTER 3-SERVICE OF PROCESS

301. STATUTORY DESIGNATION OF NATION CLERK AS AGENT FOR SERVICE OF PROCESS

- (a) The Nation Clerk shall be the agent of every domestic limited liability company that has filed with the Nation Clerk articles of organization making such designation and every foreign limited liability company upon which process may be served pursuant to this Code.
- (b) No domestic or foreign limited liability company may be formed or authorized to do business in the Nation under this Code unless its articles of organization or application for authority designates the Nation Clerk as such agent.
- (c) Any designated post office address to which the Nation Clerk shall mail a copy of process served upon him or her as agent of a domestic limited liability company or a foreign limited liability company shall continue until the filing of a certificate under this Code directing the mailing to a different post office address.
- (d) The change authorized by subdivision (c) of this section may be accomplished by (i) preparing a certificate entitled "Certificate of change of address of ...(name of limited liability company) under subdivision (d) of section three hundred one of the Limited Liability Company Code," (ii) executing such certificate in accordance with section two hundred seven of this Code and (iii) filing such certificate of change of address in accordance with section two hundred nine of this Code.
- (e) Every limited liability company to which this Code applies, shall biennially in the calendar month during which its articles of organization or application for authority were filed, or effective date thereof if stated, file on forms prescribed by the Nation Clerk, a statement setting forth the post office address within or without the Nation to which the Nation Clerk shall mail a copy of any process accepted against it served upon him or her. Such address shall supersede any previous address on file with the Nation Clerk for this purpose.

302. REGISTERED AGENT FOR SERVICE OF PROCESS

- (a) In addition to the designation of the Nation Clerk, each domestic limited liability company or authorized foreign limited liability company may designate a registered agent upon whom process against the limited liability company may be served.
- (b) The agent must be either:
 - (1) a natural person who is a resident of within the territorial jurisdiction of the Nation or has a business address within the territorial jurisdiction of the Nation;

- (2) a domestic limited liability company or an authorized foreign limited liability company; or
 - (3) a domestic corporation or a foreign corporation authorized to do business within the territorial jurisdiction of the Nation.
- (c) The registered agent may change such registered agent's address provided the address being changed is the address of the person who had previously been designated as registered agent for the limited liability company or authorized foreign limited liability company. The registered agent shall file with the Nation Clerk, a certificate entitled "Certificate of change of address of registered agent of...(name of limited liability company) under subdivision (c) of section three hundred two of the Limited Liability Company Code" and executed by such registered agent. Such certificate shall set forth:
- (1) the name of the limited liability company and, if it has been changed, the name under which it was formed. A foreign limited liability company must set forth its name and, if applicable the fictitious name the foreign limited liability company has agreed to use within the territorial jurisdiction of the Nation pursuant to section eight hundred two of this Code;
 - (2) the date the articles of organization or application for authority was filed with the Nation Clerk;
 - (3) the new address of the registered agent; and
 - (4) that a notice of the proposed change was mailed to the domestic limited liability company or foreign limited liability company by the party signing the certificate not less than thirty days prior to the date of delivery to the Nation Clerk and that such domestic limited liability company or foreign limited liability company has not objected thereto.
- (d) The registered agent of a limited liability company may resign as such agent. The registered agent shall file a certificate with the Nation Clerk entitled "Certificate of resignation of registered agent of...(name of limited liability company) under subdivision (d) of section three hundred two of the Limited Liability Company Law" and executed by such registered agent. Such certificate shall set forth:
- (1) the name of the limited liability company, and if it has been changed, the name under which it was formed. With respect to a foreign limited liability company, there shall be set forth its name and, if applicable, the fictitious name the foreign limited liability company has agreed to use in this state pursuant to section eight hundred two of this Code;
 - (2) the date the articles of organization or application for authority was filed by the Nation

Clerk;

- (3) that he or she resigns as registered agent of the limited liability company; and
 - (4) that he or she has sent a copy of the certificate of resignation by registered mail to the limited liability company at the post office address on file with the Nation Clerk specified for the mailing of processes or, if such address is the address of the registered agent, to the office of the limited liability company in the jurisdiction of its formation.
- (e) The designation of a registered agent shall terminate thirty days after the filing with the Nation Clerk of the certificate of resignation. A certificate designating a new registered agent may be delivered to the Nation Clerk by the limited liability company within thirty days for thereafter.

303. SERVICE OF PROCESS ON LIMITED LIABILITY COMPANIES

- (a) Service of legal process on any domestic or authorized foreign limited liability company (or foreign limited liability company required to be authorized to do business in the Nation) shall be made by delivering a copy personally to (i) any member of the limited liability company in this Nation, if the management of the limited liability company is vested in its members, (ii) any manager of the limited liability company within the territorial jurisdiction of the Nation, if the management of the limited liability company is vested in one or more managers or (iii) the registered agent of the limited liability company in this Nation, in the manner provided by law for the service of a summons, as if such person was a defendant.
- (b) Service of process on the Nation Clerk as agent of a domestic limited liability company or authorized foreign limited liability company shall be made by personally delivering to and leaving with the Nation Clerk or his or her deputy, or with any person authorized by the Nation Clerk to receive such service, at the office of the Nation Clerk, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such limited liability company shall be complete when the Nation Clerk is so served. The Nation Clerk shall promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the Nation Clerk specified for that purpose.
- (c) Nothing in this section shall limit or affect the right to serve any process required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law or applicable rules of procedure.

304.SERVICE OF PROCESS ON UNAUTHORIZED FOREIGN LIMITED LIABILITY COMPANIES

- (a) In any case in which a non-domiciliary would be subject to the personal or other jurisdiction of the Oneida Nation Court, a foreign limited liability company not authorized to do business in the Nation is subject to a like jurisdiction. In any such case, process against such foreign limited liability company may be served upon the Nation Clerk as its agent. Such process may issue in the Oneida Nation Court.
- (b) Service of such process upon the Nation Clerk shall be made by personally delivering to and leaving with the Nation Clerk or his or her deputy, or with any person authorized by the Nation Clerk to receive such service, at the office of the Nation Clerk, a copy of such process together with the statutory fee.
- (c) Such service shall be sufficient if notice thereof and a copy of the process are:
 - (1) delivered personally outside the Nation to such foreign limited liability company by a person and in the manner authorized to serve process by law of the jurisdiction in which service is made; or
 - (2) sent by or on behalf of the plaintiff to such foreign limited liability company by registered mail, return receipt requested, at the post office address specified for the purpose of mailing process, on file in the Nation Clerk, or with any official body performing the equivalent function, in the jurisdiction of its formation, or if no such address is specified, to its registered or other office specified, or if no such office is specified, to the last address of such foreign limited liability company known to the plaintiff.
- (d) When service of a copy of process was effected by personal service, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after such service, with the clerk of the court. Service of process shall be complete ten days after such papers are filed with the clerk of the court.
- (e) Where service of a copy of process was effected by mailing in accordance with this section, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after receipt of the return receipt signed by the foreign limited liability company or other official proof of delivery or of the original envelope mailed. If a copy of the process is mailed in accordance with this section, there shall be filed with the affidavit of compliance either the return receipt signed by such foreign limited liability company or other official proof of delivery or, if acceptance was refused by it, the original envelope with a notation by the postal authorities that acceptance was refused. If acceptance was refused, a copy of the notice and process together with notice of the mailing by registered mail and refusal to accept shall be promptly sent to such foreign limited liability company at the same address by ordinary mail and the affidavit of compliance shall so state. Service of process shall be

complete ten days after such papers are filed with the clerk of the court. The refusal to accept delivery of the registered mail or to sign the return receipt shall not affect the validity of the service and such foreign limited liability company refusing to accept such registered mail shall be charged with knowledge of the contents thereof.

(f) Service made as provided in this section shall have the same force as personal service made within the Nation.

(g) Nothing in this section shall limit or affect the right to serve any process required or permitted by law to be served upon a foreign limited liability company in any other manner now or hereafter permitted by law or applicable rules of procedure.

305. RECORDS OF PROCESS SERVED ON THE NATION CLERK

The Nation Clerk shall keep a record of each process served upon the Nation Clerk under this Code, including the date of such service and the action of the Nation Clerk with reference thereto.

CHAPTER 4-MANAGEMENT BY MEMBERS OR MANAGERS

401. MANAGEMENT OF THE LIMITED LIABILITY COMPANY BY MEMBERS

- (a) Unless the articles of organization provides for management of the limited liability company by a manager or managers or a class or classes of managers, management of the limited liability company shall be vested in its members who shall manage the limited liability company in accordance with this Code, subject to any provisions in the articles of organization or the operating agreement and section four hundred eighteen of this Code granting or withholding the management powers or responsibilities of one or more members or classes of members.
- (b) If management of a limited liability company is vested in its members, then (i) any such member exercising such management powers or responsibilities shall be deemed to be a manager for purposes of applying the provisions of this Code, unless the context otherwise requires, and (ii) any such member shall have and be subject to all of the duties and liabilities of a manager provided in this Code.

402. VOTING RIGHTS OF MEMBERS

- (a) Except as provided in the operating agreement, in managing the affairs of the limited liability company, electing managers or voting on any other matter that requires the vote at a meeting of the members pursuant to this Code, the articles of organization or the operating agreement, each member of a limited liability company shall vote in proportion to such member's share of the current profits of the limited liability company in accordance with section five hundred three of this Code.
- (b) Except as provided in the operating agreement, any member may vote in person or by proxy.
- (c) Except as provided in the operating agreement, whether or not a limited liability company is managed by the members or by one or more managers, the vote of a majority in interest of the members entitled to vote thereon shall be required to:
 - (1) admit a person as a member and issue such person a membership interest in the limited liability company;
 - (2) approve the incurrence of indebtedness by the limited liability company other than in the ordinary course of its business; or
 - (3) adopt, amend, restate or revoke the articles of organization or operating agreement, subject to the provisions in subdivision (e) of this section, subdivision (b) of section six hundred nine of this Code and subdivision (b) of section four hundred seventeen of this Code.

- (d) Except as provided in the operating agreement, whether or not a limited liability company is managed by the members or by one or more managers, the vote of at least two-thirds in interest of the members entitled to vote thereon shall be required to:
 - (1) approve the dissolution of the limited liability company in accordance with section seven hundred one of this Code;
 - (2) approve the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited liability company; or
 - (3) approve a merger or consolidation of the limited liability company with or into another limited liability company or foreign limited liability company.
- (e) Notwithstanding anything to the contrary in this section or section four hundred seventeen of this Code, no applicable provision in either this Code, the articles of organization or operating agreement, as the case may be, that provides for the vote or consent of a percentage in interest of the members or class of members shall be amended without the vote or consent of at least such percentage in interest of the members or such class of members.
- (f) Whenever any action is to be taken under this Code by the members or a class of members, it shall, except as otherwise required or specified by this Code or the articles of organization or the operating agreement as permitted by this Code, be authorized by a majority in interest of the members' votes cast at a meeting of members by members or such class of members entitled to vote thereon.

403. MEETINGS OF MEMBERS

Except as provided in the operating agreement, a limited liability company shall hold meetings of members annually. Meetings of members may be held at a place, either within or outside the Nation, as may be fixed by or in accordance with the operating agreement, or if not so fixed, at the office of the limited liability company. Except as provided in the operating agreement, members of a limited liability company may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

404. QUORUM OF MEMBERS

- (a) Except as provided in the operating agreement, a majority in interest of the members entitled to vote shall constitute a quorum at a meeting of members for the transaction of any business, provided that when a specified item of business is required to be voted on by a class of members voting as a class, a majority in interest of the members of such class shall constitute a quorum for the transaction of such specified item of business.
- (b) The operating agreement may provide for a greater quorum or a lesser quorum, provided that

such lesser quorum shall not be less than one-third in interest of the members entitled to vote.

- (c) When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any members.
- (d) The members present may adjourn the meeting despite the absence of a quorum.

405. NOTICE OF MEETINGS OF MEMBERS

- (a) Except as provided in the operating agreement, whenever under the provisions of this Code members are required or permitted to take any action by vote at a meeting, written notice shall be given stating the place, date and hour of the meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting and, in the case of a special meeting, stating the purpose or purposes for which the meeting is called.
- (b) Except as provided in the operating agreement, a copy of the notice of any meeting shall be given, personally or by first class mail, not less than ten or more than sixty days before the date of the meeting, provided, however, that a copy of such notice may be given by third class mail not less than twenty-four nor more than sixty days before the date of the meeting, to each member entitled to vote at such meeting. If mailed, such notice is given when deposited in the United States mail, with postage thereon prepaid, directed to the member at his or her address as it appears in the records of the limited liability company. An affidavit of a manager, if any, or other person giving the notice that the notice required by this section has been given and shall, in the absence of fraud, be prima facie evidence of the facts therein stated.
- (c) Except as provided in the operating agreement, when a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted at the original date of the meeting.

406. WAIVER OF NOTICE

Except as provided in the operating agreement, notice of meeting need not be given to any member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any member at the meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

407. ACTION BY MEMBERS WITHOUT A MEETING

- (a) Whenever under this Code members of a limited liability company are required or permitted to take any action by vote, except as provided in the operating agreement, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by the members who hold the voting interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting which all of the members entitled to vote therein were present and voted and shall be delivered to the office of the limited liability company, its principal place of business or a manager, employee or agent of the limited liability company having custody of the records of the limited liability company. Delivery made to the office of the limited liability company shall be by hand or by certified or registered mail, return receipt requested.
- (b) Every written consent shall bear the date of signature of each member who signs the consent, and, except as provided in the operating agreement, no written consent shall be effective to take the action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this section to the limited liability company, written consents signed by a sufficient number of members to take the action are delivered to the office of the limited liability company, its principal place of business or a manager, employee or agent of the limited liability company. Delivery made to such office, principal place of business or manager, employee or agent shall be by hand or by certified or registered mail, return receipt requested.
- (c) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting. In the event that the action that is consented to is such as would have required the filing of articles or a certificate under any other section of this Code, if such action had been voted on by members at a meeting thereof, such articles or certificate filed under such other section shall state, in lieu of any statement required by such section concerning any vote of members, that written consent has been given in accordance with this section and that written notice has been given as provided in this section.

408. MANAGEMENT BY MANAGERS

- (a) If the articles of organization provides that the management of the limited liability company shall be vested in a manager or managers or class or classes of managers, then the management of the limited liability company shall be vested in one or more managers or classes of managers in accordance with this Code, subject to any provisions in the articles of organization or the operating agreement and section four hundred nineteen of this Code granting or withholding the management powers or responsibilities of one or more managers or class or classes of managers. A manager shall hold such offices and have such responsibilities accorded to him or her by the members as provided in the operating agreement.

- (b) Except as provided in the operating agreement and in accordance with section four hundred nineteen of this Code, the managers shall manage the limited liability company by the affirmative vote of a majority of the managers.
- (c) Except as provided in the operating agreement, any action required or permitted to be taken by a vote of the managers or a class of managers may be taken without a vote if all of the managers or all of the managers in such class, as the case may be, consent thereto in writing, and the writing is filed with the records of the limited liability company.
- (d) Except as otherwise provided in the operating agreement, managers of a limited liability company may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

409. DUTIES OF MANAGERS

- (a) A manager shall perform his or her duties as a manager, including his or her duties as a member of any class of managers, in good faith and with that degree of care that an ordinarily prudent person in a like position would use under similar circumstances.
- (b) In performing his or her duties, a manager shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:
 - (1) one or more agents or employees of the limited liability company;
 - (2) counsel, public accountants or other persons as to matters that the manager believes to be within such person's professional or expert competence; or
 - (3) a class of managers of which he or she is not a member, duly designated in accordance with the operating agreement of the limited liability company, as to matters within its designated authority, which class the manager believes to merit confidence, so long as in so relying he or she shall be acting in good faith and with such degree of care, but he or she shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause such reliance to be unwarranted.
- (c) A person who so performs his or her duties in accordance with this section shall have no liability by reason of being or having been a manager of the limited liability company.

410. QUALIFICATION OF MANAGERS

- (a) Unless otherwise provided in the operating agreement, a manager may, but need not, be a member of the limited liability company.

(b) The operating agreement may prescribe qualifications for managers.

411. INTERESTED MANAGERS

(a) No contract or other transaction between a limited liability company and one or more of its managers, or between a limited liability company and any other limited liability company or other business entity in which one or more of its managers are managers, directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such manager or managers are present at the meeting of the managers, or of a class thereof, which approves such contract or transaction, or that his or her or their votes are counted for such purpose:

(1) if the material facts as to such manager's interest in such contract or transaction and as to any such common managership, directorship, officership or financial interest are disclosed in good faith or known to the other managers or class of managers, and the managers or such class approve such contract or transaction by a vote sufficient for such purpose without counting the vote of such interested manager or, if the votes of the disinterested managers are insufficient to constitute an act of the managers pursuant to section four hundred eight of this Code, by unanimous vote of the disinterested managers; or

(2) if the material facts as to such manager's interest in such contract or transaction and as to any such common managership, directorship, officership or financial interest are disclosed in good faith or known to the members entitled to vote thereon, and such contract or transaction is approved by vote of such members.

(b) If such good faith disclosure of the material facts as to the managers interest in the contract or transaction and as to any such common managership, directorship, officership or financial interest is made to the managers or members, or known to the managers or class of managers or members approving such contract or transaction, as provided in subdivision (a) of this section, the contract or transaction may not be avoided by the limited liability company for the reasons set forth in subdivision (a) of this section. If there was no such disclosure or knowledge, or if the vote of such interested manager was necessary for the approval of such contract or transaction at a meeting of the managers or class of managers at which it was approved, the limited liability company may avoid the contract or transaction unless the party or parties thereto shall establish affirmatively that the contract or transaction was fair and reasonable as to the limited liability company at the time it was approved by the managers, a class of managers or the members.

(c) Common or interested managers may be counted in determining the presence of a quorum at a meeting of the managers or of a class of managers that approves such contract or transaction.

(d) The operating agreement may contain additional restrictions on contracts or transactions between a limited liability company and its managers and may provide that contracts or

transactions in violation of such restrictions shall be void or voidable by the limited liability company.

- (e) Unless otherwise provided in the operating agreement, the managers shall have authority to fix the compensation of managers for services in any capacity.

412. AGENCY OF MEMBERS OR MANAGERS

- (a) Unless the articles of organization of a limited liability company provide that management shall be vested in a manager or managers, every member is an agent of the limited liability company for the purpose of its business, and the act of every member, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way of business of the limited liability company, binds the limited liability company, unless (i) the member so acting has in fact no authority to act for the limited liability company in the particular matter and (ii) the person with whom he or she is dealing has knowledge of the fact that the member has no such authority.
- (b) If the articles of organization of a limited liability company provide that management shall be vested in one or more managers:
 - (1) no member, solely by reason of being a member, is an agent of the limited liability company for the purpose of its business except to the extent that authority has been delegated to such member by the manager or managers or by the provisions of the operating agreement; and
 - (2) every manager is an agent of the limited liability company for the purpose of its business, and the act of every manager, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business of the limited liability company binds the limited liability company, unless (A) the manager acting has in fact no authority to act for the limited liability company in the particular matter and (B) the person with whom he or she is dealing has knowledge of the fact that the manager has no such authority.
- (c) An act of a member or manager that is not apparently for the carrying on of the business of the limited liability company in the usual way does not bind the limited liability company unless authorized in fact by the limited liability company in the particular matter.
- (d) No act of a member, manager or other agent of a limited liability company in contravention of a restriction on authority shall bind the limited liability company to persons having knowledge of the restriction.

413. ELECTION AND TERM OF MANAGERS

- (a) Except as provided in the operating agreement, if the articles of organization provides that management shall be vested in one or more managers, the members shall vote in accordance with section four hundred two of this Code to designate or elect annually the manager or managers of the limited liability company.
- (b) Each manager shall hold the office and have the terms (which may be unlimited) and responsibilities accorded to him or her by the members and set out in the operating agreement until his or her successor has been elected and qualified or until his or her earlier resignation or removal.
- (c) Except as provided in the operating agreement, the initial managers shall hold office until the first annual meeting and until their successors have been elected and qualified.
- (d) The number of managers may be increased or decreased by amendment to and in the manner provided in the operating agreement.

414. REMOVAL OR REPLACEMENT OF MANAGERS

Except as provided in the operating agreement, any or all managers of a limited liability company may be removed or replaced with or without cause by a vote of majority in interest of the members entitled to vote thereon.

415. RESIGNATION OF MANAGERS

Except as provided in the operating agreement, a manager may resign at any time by giving written notice to the limited liability company; provided however, that if the resignation violates any provision contained in the operating agreement or the provision of any contractual agreement between the manager and the limited liability company, the limited liability company may recover from such manager damages for such breach as provided by such operating agreement or contract or by law. The election of a manager shall not of itself create contract rights.

416. VACANCIES

- (a) Except as provided in the operating agreement, if management of the limited liability company is vested in a group of managers, and vacancies occurring in such group may be filled by the vote of a majority in interest of the members entitled to vote thereon.
- (b) Except as provided in the operating agreement, a manager chosen to fill a vacancy shall serve the unexpired term of his or her predecessor.
- (c) Except as provided in the operating agreement, any manager's position filled by reason of an increase in the number of managers shall be filled by the vote of a majority in interest of the

members entitled to vote thereon.

- (d) Except as provided in the operating agreement, a manager chosen to fill a position resulting from an increase in the number of managers shall hold office until the next annual meeting of members or until a successor has been elected and qualified.

417. OPERATING AGREEMENT

- (a) Subject to the provisions of this Code, the members of a limited liability company shall adopt a written operating agreement that contains any provisions not inconsistent with law or its articles of organization relating to (i) the business of the limited liability company, (ii) the conduct of its affairs and (iii) the rights, powers, preferences, limitations or responsibilities of its members, managers, employees or agents, as the case may be. The operating agreement may set forth a provision eliminating or limiting the personal liability of managers to the limited liability company or its members for damages for any breach of duty in such capacity, provided that no such provision shall eliminate or limit:

- (1) the liability of any manager if a judgment or other final adjudication adverse to him or her establishes that his or her acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled or that with respect to a distribution the subject of subdivision (a) of section five hundred eight of this Code his or her acts were not performed in accordance with section four hundred nine of this Code; or

- (2) the liability of any manager for any act or omission prior to the adoption of a provision authorized by this subdivision.

- (b) The operating agreement of a limited liability company may be amended from time to time as provided therein; provided, however, that, except as otherwise provided in the operating agreement or the articles of organization, without the written consent of each member adversely affected thereby, (i) no amendment of the operating agreement or (ii) to the extent any provision concerning (A) the obligations of any member to make contributions, (B) the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (C) the manner of computing the distributions of any member or (D) the compromise of an obligation of a member to make a contribution is contained in the articles of organization, no amendment of such provision in the articles of organization, shall be made that (i) increases the obligations of any member to make contributions, (ii) alters the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (iii) alters the manner of computing the distributions of any member or (iv) allows the obligation of a member to make a contribution to be compromised by consent of less than all the members.

418. CLASSES AND VOTING OF MEMBERS

- (a) The articles of organization of a limited liability company may provide for classes or groups of members having such relative rights, powers, preferences and limitations as the operating agreement of such limited liability company may provide. The articles of organization may make provision for the future creation, in the manner provided in the operating agreement, of additional classes of members having such relative rights, powers, preferences and limitations as may from time to time be established pursuant to the operating agreement, including rights, powers, preferences, limitations and duties senior to existing to existing classes of members. The operating agreement may grant to or withhold from all or one or more classes of members the right to vote upon any matter on the basis of capital contributions, capital commitments or capital accounts or on a per capita, class or other basis.
- (b) The operating agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

419. CLASSES AND VOTING OF MANAGERS

- (a) The articles of organization of limited liability company may provide for classes or groups of managers having such relative rights, powers, preferences and limitations as the operating agreement may provide. The articles of organization may make provision for the future creation, in the manner provided in the operating agreement, of additional classes of managers having such relative rights, powers, preferences and limitations as may from time to time be established pursuant to the operating agreement, including rights, powers, preferences, limitations and duties senior to existing classes of managers. The operating agreement may provide for the classification of managers within classes of managers for the purpose of determining the terms of office of such managers and may grant to all or to one or more classes of managers the right to vote upon any matter on a per capita, class or other basis.
- (b) The operating agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

420. INDEMNIFICATION

Subject to the standards and restrictions, if any, set forth in its operating agreement, a limited liability company may, and shall have the power to, indemnify and hold harmless, and advance expenses to, any member, manager or other person, or any testator or intestate of such member, manager or other person, from and against any and all claims and demands whatsoever; provided, however, that no indemnification may be made to or on behalf of any member, manager or other person if a judgment or other final adjudication adverse to such member, manager or other person establishes (a) that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or (b) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

CHAPTER 5-CONTRIBUTIONS AND DISTRIBUTIONS

501. FORM OF CAPITAL CONTRIBUTIONS

The contributions of a member to the capital of a limited liability company may be in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services, or any combination of the foregoing.

502. LIABILITY FOR CONTRIBUTIONS

- (a) Except as provided in the operating agreement, a member is obligated to the limited liability company to perform any promise to contribute cash or property or to perform services that is otherwise enforceable in accordance with applicable law, even if he or she is unable to perform because of death, disability or other reason. Except as provided in the operating agreement, if a member does not make any required contribution of property or services, he or she is obligated at the option of the limited liability company to contribute cash equal to that portion of the value, as stated in the records of the limited liability company, if so stated, of the contribution that he or she has not made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the operating agreement or applicable law.
- (b) Unless otherwise provided in the operating agreement and except as provided in section six hundred five of this Code, the obligation of a member to make a contribution or to return money or other property paid or distributed in violation of this Code may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit in reliance on the obligation of any member may enforce the original obligation to the extent he or she reasonably relied on such obligation after the member signed a writing which reflects the obligation and the creditor extended credit before the compromise. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions to the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company or a member prior to the time the call occurs.
- (c) The operating agreement may provide that the membership interest of any member who fails to make any required contribution shall be subject to specified consequences of such failure. Such consequences may include, but are not limited to, reduction or elimination of the defaulting member's interest, subordination of the defaulting member's interest to that of non-defaulting members, a forced sale of the defaulting member's interest, forfeiture of the defaulting member's interest, the lending by the other members of the amount necessary to meet the defaulting member's commitment, a fixing of the value of the defaulting member's interest by appraisal or by formula and redemption or sale of such member's interest at such value, or other consequences.

503. SHARING OF PROFITS AND LOSSES

The profits and losses of a limited liability company shall be allocated among the members, and among the classes of members, if any, in the manner provided in the operating agreement. If the operating agreement does not so provide profits and losses shall be allocated on the basis of the value, as stated in the records of the limited liability company if so stated, of the contributions of each member, but not including defaulted obligations to make contributions, to the extent they have been received by or promised to the limited liability company and have not been returned to any such member.

504. SHARING OF DISTRIBUTIONS

Distributions of cash or other assets of a limited liability company shall be allocated among the members, and among classes of members, if any, in the manner provided in the operating agreement, which may, among other things, establish record dates for distributions. If the operating agreement does not so provide, distributions shall be allocated on the basis of the value, as stated in the records of the limited liability company, if so stated, of the contributions of each member, but not including defaulted obligations to make contributions, to the extent they have been received by or promised to the limited liability company and have not been returned to any such member.

505. DISTRIBUTIONS IN KIND

- (a) Except as provided in the operating agreement, a member, regardless of the nature of his or her contribution, has no right to demand and receive any distribution from the limited liability company in any form other than cash.
- (b) Except as provided in the operating agreement, a member may not be compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset distributed to him or her exceeds a percentage of that asset that is equal to the percentage in which he or she shares in distributions from the limited liability company.

506. RIGHT TO DISTRIBUTION

Subject to sections five hundred eight and seven hundred four of this Code, at the time a member becomes entitled to receive a distribution, such member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

507. INTERIM DISTRIBUTIONS

Except as provided in this Code, to the extent and at the times or upon the happening of events specified in the operating agreement, a member is entitled to receive distributions from a limited liability company before his or her withdrawal from the limited liability company and before the dissolution and winding up of the limited liability company.

508. LIMITATIONS ON DISTRIBUTIONS

- (a) A limited liability company shall not make a distribution to a member to the extent that, at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their membership interests and liabilities for which recourse of creditors is limited to specified property of the limited liability company, exceed the fair market value of the assets of the limited liability company, except that the fair market value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of such property exceeds such liability.
- (b) A member who receives a distribution in violation of subdivision (a) of this section, and who knew at the time of distribution that the distribution violated subdivision (a) of this section, shall be liable to the limited liability company for the amount of the distribution. A member who receives a distribution in violation of subdivision (a) of this section, and who did not know at the time of the distribution that the distribution violated subdivision (a) of this section, shall not be liable for the amount of the distribution. Subject to subdivision (c) of this section, this subdivision shall not affect any obligation or liability of a member under the operating agreement or other applicable law for the amount of a distribution.
- (c) Unless otherwise agreed, a member who receives a wrongful distribution from the limited liability company shall have no liability under this Code or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution.

509. DISTRIBUTION UPON WITHDRAWAL

Except as provided in this Code, upon withdrawal as a member of the limited liability company, any withdrawing member is entitled to receive any distribution to which he or she is entitled under the operating agreement and, if not otherwise provided in the operating agreement, he or she is entitled to receive, within a reasonable time after withdrawal, the fair value of his or her membership interest in the limited liability company as of the date of withdrawal based upon his or her right to share in distributions from the limited liability company.

CHAPTER 6-MEMBERS AND MEMBERSHIP

601. NATURE OF MEMBERSHIP INTEREST

A membership interest in the limited liability company is personal property. A member has no interest in specific property of the limited liability company.

602. ADMISSION OF MEMBERS

(a) A person becomes a member of a limited liability company on the later of:

- (1) the effective date of the initial articles of organization; or
- (2) the date as of which the person becomes a member pursuant to this section or the operating agreement; provided, however, that if such date is not ascertainable, the date stated in the records of the limited liability company.

(b) After the effective date of a limited liability company's initial articles of organization, a person may be admitted as a member:

- (1) in the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the vote or written consent of a majority in interest of the members; or
- (2) in the case of an assignee of a membership interest of a member who has the power, as provided in the operating agreement, to grant the assignee the right to become a member, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power; or
- (3) unless otherwise provided in an agreement of merger or consolidation or the operating agreement, in the case of a person acquiring a membership interest in a surviving or resulting limited liability company pursuant to a merger or consolidation approved in accordance with subdivision (b) of section one thousand one of this Code, at the time provided in and upon compliance with the operating agreement of the surviving or resulting limited liability company.

603. ASSIGNMENT OF MEMBERSHIP INTEREST

(a) Except as provided in the operating agreement,

- (1) a membership interest is assignable in whole or in part;

- (2) an assignment of a membership interest does not dissolve a limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights or powers of a member;
 - (3) the only effect of an assignment of a membership interest is to entitle the assignee to receive, to the extent assigned, the distributions and allocations of profits and losses to which the assignor would be entitled; and
 - (4) a member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of his or her membership interest. Unless otherwise provided in the operating agreement, the pledge of, or the granting of a security interest, lien or other encumbrance in or against, any or all of the membership interest of a member shall not cause the member to cease to be a member or to cease to have the power to exercise any rights or powers of a member.
- (b) The operating agreement may provide that a member's interest may be evidenced by a certificate issued by the limited liability company any may also provide for the assignment or transfer of any of the interest represented by such a certificate. A member's interest may be certificated security or an uncertificated security within the meaning of section 8-102 of the New York Uniform Commercial Code if the requirements of such section are met, and if the requirements are not met such interest shall, for purposes of the uniform commercial Code, be deemed to be a general intangible asset. The existence of the restrictions on the sale or transfer of a membership interest, as contained in this Code and, if applicable, in the operating agreement, shall be noted conspicuously on the face or back of every certificate representing a membership interest issued by a limited liability company. Any sale or transfer in violation of such restrictions shall be void.
- (c) Unless otherwise provided in an operating agreement and except to the extent assumed by agreement, until the time, if any, that an assignee of a membership interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

604. RIGHTS OF ASSIGNEE TO BECOME A MEMBER

- (a) Except as provided in the operating agreement, an assignee of a membership interest may not become a member without the vote or written consent of at least a majority in interest of the members, other than the member who assigned or proposes to assign such membership interest.
- (b) An assignee who has become a member has, to the extent assigned, the rights, powers, preferences and limitations and is subject to the restrictions and liabilities, of a member under the articles of organization, the operating agreement and this Code. Notwithstanding the foregoing, unless otherwise provided in the operating agreement, an assignee who become a member is liable for the obligations of his or her assignor to make contributions as provided in section five hundred two of this Code, but shall not be liable for the obligations of his or her assignor under section six hundred six and five hundred eight of this Code. However, the

assignee is not obligated for (i) liabilities, including the obligations of his or her assignor to make contributions as provided in section five hundred two of this Code, unknown to the assignee at the time he or she becomes a member and that could not be ascertained from the operating agreement or (ii) any accrued liabilities of the assignor at the time of assignment unless the assignee specifically assumes such liabilities.

605. LIABILITY UPON ASSIGNMENT

Whether or not an assignee of a membership interest becomes a member, the assignor of a membership interest is not released from any liability under this Code or the operating agreement, except liabilities that arise after the effectiveness of the assignment and are pursuant to section two hundred ten of this Code, section five hundred eight of this Code or, in the event the assignee becomes a member, unless otherwise provided in the operating agreement, section five hundred two of this Code.

606. WITHDRAWAL OF A MEMBER

A member may withdraw as a member of a limited liability company at the time or upon the happening of any of the events specified in the operating agreement and in accordance with the operating agreement or unless otherwise provided in the operating agreement, with the vote or written consent of at least two-thirds in interest of the members, other than the member who proposes to withdraw as a member of the limited liability company. If such consent is not given, and if the operating agreement does not specify the time or the events upon the happening of which a member may withdraw, a member may, unless prohibited by the operating agreement, withdraw upon not less than six months' prior written notice to the limited liability company. If such withdrawal violates the provisions of the operating agreement, the limited liability company may recover from the withdrawing member damages for breach of the operating agreement, which may be determined as set forth in the operating agreement, and offset the damages against the amount otherwise distributable to him or her. Notwithstanding anything to the contrary set forth in this Code or under applicable law, an operating agreement may provide that a member may not withdraw from a limited liability company or assign his or her membership interest prior to the dissolution and winding up of the limited liability company.

607. RIGHTS OF CREDITORS OF MEMBERS

- (a) On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the membership interest of the member with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the membership interest. This Code does not deprive any member of the benefit of any exemption laws applicable to his or her membership interest.
- (b) No creditor of a member shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company.

608. POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER

If a member who is a natural person dies or a court of competent jurisdiction adjudges him or her to be incompetent to manage his or her person or his or her property, the member's executor, administrator, guardian, conservator or other legal representative may exercise all of the member's rights for the purpose of settling his or her estate or administering his or her property, including any power under the operating agreement of an assignee to become a member. If a member is a corporation, trust or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

609. LIABILITY OF MEMBERS, MANAGERS AND AGENTS

- (a) Neither a member of a limited liability company, a manager of a limited liability company managed by a manager or managers nor an agent of a limited liability company (including a person having more than one such capacity) is liable for any debts, obligations or liabilities of the limited liability company or each other, whether arising in tort, contract or otherwise, solely by reason of being such member, manager or agent or acting (or omitting to act) in such capacities or participating (as an employee, consultant, contractor or otherwise) in the conduct of the business of the limited liability company.
- (b) Notwithstanding the provisions of subdivision (a) of this section, all or specified members of a limited liability company may be liable in their capacity as members for all or specified debts, obligations or liabilities of a limited liability company if (1) a statement to such effect is specifically contained in the articles of organization of the limited liability company and (2) any such member so liable shall have (i) specifically consented in writing (A) to the adoption of such provisions or (B) to be bound by such provision or (ii) specifically voted for the adoption of such provision. The absence of either such statement in the articles of organization or such consent or vote of any such member shall in no way affect or impair the ability of a member to act as a guarantor or a surety for, provide collateral for or otherwise be liable for, the debts, obligations or liabilities of a limited liability company as authorized pursuant to section six hundred eleven of this Code.

610. PARTIES TO ACTIONS

A member of a limited liability company is not a proper party to proceedings by or against a limited liability company, except where the object is to enforce a member's right against or liability to the limited liability company.

611.BUSINESS TRANSACTIONS OF A MEMBER WITH THE LIMITED LIABILITY COMPANY

Except as may be provided in the operating agreement, a member may lend money to, borrow money from, act as a guarantor or surety for, provide collateral for the obligations of and transact other business with the limited liability company and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a member.

CHAPTER 7-DISSOLUTION

701. DISSOLUTION

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

- (a) the latest date on which the limited liability company is to dissolve, if any, provided in the articles of organization;
- (b) at the time or upon the happening of events specified in the operating agreement;
- (c) subject to any requirement in the operating agreement requiring approval by any greater or lesser percentage in interest of the members or class or classes or group or groups of members, the vote or written consent of at least two-thirds in interest of the members;
- (d) the bankruptcy, death, dissolution, expulsion, incapacity or withdrawal of any member or only the member, members or class or classes or group or groups of members specified in the operating agreement, or the occurrence of any such event specified in the operating agreement, or any other event that terminates the continued membership of any member, or only such member, members or class or classes or group or groups of members specified in the operating agreement, unless within one hundred eighty days after such event the limited liability company is continued either:
 - (1) by the vote or written consent of the percentage in interest of the members or class or classes or group or groups of members stated in the operating agreement; or
 - (2) if no such percentage is specified in the operating agreement, by the vote or written consent of a majority in interest of all of the remaining members; or
 - (3) pursuant to a right to continue stated in the operating agreement; or
- (e) the entry of a decree of judicial dissolution under section seven hundred two of this Code.

702. JUDICIAL DISSOLUTION

On application by or for a member, the court may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement. A certified copy of the order of dissolution shall be filed by the applicant with the Nation Clerk within thirty days of its issuance.

703. WINDING UP

- (a) In the event of a dissolution of a limited liability company, except for a dissolution pursuant to section seven hundred two of this Code, unless otherwise provided in the operating agreement, the members may wind up the limited liability company's affairs. Upon cause shown, the court may wind up the limited liability company's affairs upon application of any member, or his or her legal representative or assignee, and in connection therewith may appoint a receiver or liquidating trustee.
- (b) Upon dissolution of a limited liability company, the persons winding up the limited liability company's affairs may, in the name of and for and on behalf of the limited liability company, prosecute and defend suits, whether civil, criminal or administrative, settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge the limited liability company's liabilities and distribute to the members any remaining assets of the limited liability company, all without affecting the liability of members including members participating in the winding up of the limited liability company's affairs.

704. DISTRIBUTION OF ASSETS

Upon the winding up of a limited liability company, the assets shall be distributed as follows:

- (a) to creditors, including members who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited liability company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to members and former members under section five hundred seven or section five hundred nine of this Code;
- (b) except as provided in the operating agreement, to members and former members in satisfaction of liabilities for distribution under section five hundred seven or section five hundred nine of this Code; and
- (c) except as provided in the operating agreement, to members first for the return of their contributions, to the extent not previously returned, and second respecting their membership interests, in the proportions in which the members share in distributions in accordance with section five hundred four of this Code.

705. ARTICLES OF DISSOLUTION

- (a) Within ninety days following the dissolution and the commencement of winding up the limited liability company, or at any other time there are no members, articles of dissolution shall be filed with the Nation Clerk entitled "Articles of dissolution....(name of limited liability company) under section seven hundred five of the Limited Liability Company Code" and executed in accordance with section two hundred seven of this Code. The articles of dissolution shall set forth:

- (1) the name of the limited liability company; and if it has been changed, the name under which it was formed;
 - (2) the date of filing of its articles of organization and each subsequent amendment thereto or restatement thereof;
 - (3) the event giving rise to the filing of the articles of dissolution; and
 - (4) any other information the persons filing the articles determine.
- (b) The cancellation of the articles of organization is effective at the time of filing of the articles of dissolution.
- (c) The cancellation of the articles of organization shall not affect the liability of the members during the period of winding up and termination of the limited liability company.

CHAPTER 8-FOREIGN LIMITED LIABILITY COMPANIES

801. GOVERNING LAW

Subject to the laws of the Oneida Indian Nation:

- (a) the laws of the jurisdiction under which a foreign limited liability company is formed govern its organization and internal affairs and the liability of its members and managers; and
- (b) a foreign limited liability company may not be denied a certificate of authority by reason of any difference between such laws and the laws of the Oneida Indian Nation.

802. APPLICATION FOR AUTHORITY

- (a) Before doing business within the territorial jurisdiction of the Nation, a foreign limited liability company shall apply for authority to do business in the Nation by submitting to the Nation Clerk (i) a certificate of existence or, if no such certificate is issued by the jurisdiction of formation, a certified copy of the articles of organization of the limited liability company and all subsequent amendments thereto or, if no articles of organization have been filed, a certified copy of the certificate filed as its organizational basis and all amendments thereto (if such certificate or certified copy is in a foreign language, a translation in English thereof under oath of the translator shall be attached thereto) and (ii) an application for authority as a foreign limited liability company entitled "Application for authority of...(name of foreign limited liability company) under section eight hundred two of the Limited Liability Company Code" signed and verified on or affirmed under penalties of perjury by an authorized person and setting forth:
 - (1) the name of the foreign limited liability company and, if a foreign liability company's name is not acceptable for authorization pursuant to section two hundred four of this Code, the fictitious name under which it proposes to apply for authority and do business in the Nation, which name shall be in compliance with section two hundred four of this Code and shall be used by the foreign limited liability company in all its dealings with the Nation Clerk and in the conduct of its business within the territorial jurisdiction of the Nation.
 - (2) the jurisdiction and date of its organization;
 - (3) the office of the limited liability company is to be located;
 - (4) a designation of the Nation Clerk as its agent upon whom process against it may be served and the post office address within the Nation to which the Nation Clerk shall mail a copy of any process against it served upon him or her;

- (5) if it is to have a registered agent, his or her name and address within the Nation and a statement that the registered agent is to be its agent upon whom process may be served;
- (6) the address of the office required to be maintained in the jurisdiction of its formation by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited liability company;
- (7) a statement that the foreign limited liability company is in existence in the jurisdiction of its formation at the time of the filing of such application; and
- (8) the name and address of the authorized officer in the jurisdiction of its formation where a copy of its articles of organization is filed or, if no public filing of its articles of organization is required by the law of the jurisdiction of formation, a statement that the foreign limited liability company shall provide, on request, a copy thereof with all amendments thereto (if such documents are in a foreign language, a translation in English thereof under oath of the translator shall be attached thereto), and the name and post office address of the person responsible for providing such copies.

803. ACTIVITIES NOT CONSTITUTING DOING BUSINESS

- (a) Without excluding other activities that may not constitute doing business within the territorial jurisdiction of the Nation, a foreign limited liability company shall not be considered to be doing business within the territorial jurisdiction of the Nation for the purposes of this Code, by reason of carrying on within the territorial jurisdiction of the Nation any one or more of the following activities:
 - (1) maintaining or defending any action or proceeding, whether judicial, administrative, arbitrative or otherwise or effecting settlement thereof or the settlement of claims or disputes;
 - (2) holding meetings of its members or managers;
 - (3) maintaining bank accounts; or
 - (4) maintaining offices or agencies only for the transfer, exchange and registration of its membership interests or appointing and maintaining depositaries with relation to its membership interests.
- (b) The specification in subdivision (a) of this section does not establish a standard of activities that may subject a foreign limited liability company to service of process under this Code or any other statute of the Nation.

804. AMENDMENTS TO APPLICATION FOR AUTHORITY

- (a) A foreign limited liability company may amend or change its application for authority from time to time if the amendments or changes contain only such provisions as might be lawfully contained in an application for authority at the time of making such amendment or change.
- (b) Every foreign limited liability company that has received a filing receipt entitled "Certificate of authority of...(name of foreign limited liability company) under section eight hundred five of the Limited Liability Company Code," evidencing authority as provided herein, shall, within ninety days after the change of any of the information required to be set forth in its application for authority under section eight hundred two of this Code, file an amendment to its application with the Nation Clerk entitled "Certificate of amendment of change of...(name of foreign limited liability company) under section eight hundred four of the Limited Liability Company Code," signed and verified on or affirmed under penalties of perjury by an authorized person. The certificate shall set forth:
 - (1) the name of the foreign organization as it appears on the index of names of existing domestic and foreign limited liability companies of any type or kind in the Nation Clerk, and the fictitious name, if any, the foreign limited liability company has agreed to use in the Nation pursuant to section eight hundred two of this Code;
 - (2) the jurisdiction of its organization;
 - (3) the date it was authorized to do business in the Nation;
 - (4) each amendment or change effected thereby; and
 - (5) if the true name of the foreign limited liability company is changed, a statement that the change of name has been effected under laws of the jurisdiction of its formation and the date the change was so effected.

805. ISSUANCE OF CERTIFICATE OF AUTHORITY; EFFECT

- (a) Upon filing with the Nation Clerk of the application for authority, the Nation Clerk shall issue a filing receipt entitled "Certificate of authority of...(name of foreign limited liability company) under section eight hundred five of the Limited Liability Company Code," and the foreign limited liability company shall be authorized to do business within the territorial jurisdiction of the Nation. Such authority shall continue so long as the foreign limited liability company retains its authority to do business in the jurisdiction of its formation and its authority to do business has not been surrendered, suspended or annulled in accordance with the law.
- (b) A foreign limited liability company that has received a certificate of authority shall have such powers to conduct business in the Nation as are permitted by the laws of the jurisdiction in which it was organized but no greater than those of a domestic limited liability company;

provided, that this subdivision shall not affect the powers of the foreign limited liability company outside the Nation; and provided, further, that a foreign related limited liability partnership (i) shall have such powers to conduct business in the Nation as are permitted by the laws of the jurisdiction whose laws govern the agreement under which such foreign related limited liability partnership operates but no greater than those of a partnership without limited partners operating under an agreement governed by the laws of the Nation and provided that such foreign related limited liability partnership shall not engage in any profession or professions and (ii) shall be deemed to be a foreign limited liability partnership for purposes of subdivision (l) and (m) of section 121-1502 of the Oneida Indian Nation partnership law which subdivisions shall be applicable to foreign related limited liability partnerships.

806. SURRENDER OF CERTIFICATE OF AUTHORITY

- (a) A foreign limited liability company may surrender its certificate of authority by filing with the Nation Clerk a certificate entitled "Certificate of surrender of authority of...(name of foreign limited liability company) under section eight hundred six of the Limited Liability Company Code" signed and verified by an authorized person, or by a trustee, receiver or other person authorized by law to wind up such limited liability company. The authority of the foreign limited liability company to do business in the Nation shall terminate on such filing of the certificate of surrender of authority. A surrender shall not terminate the authority of the Nation Clerk to accept service of process on the foreign limited liability company with respect to causes of action arising out of doing business in the Nation.
- (b) The certificate of surrender of authority shall set forth:
- (1) the name of the foreign limited liability company as it appears on the index of names of existing domestic and authorized foreign limited liability companies of any type or kind in the Nation Clerk, and the fictitious name the foreign limited liability company has agreed to use in the Nation pursuant to section eight hundred two of this Code;
 - (2) the jurisdiction where it was organized;
 - (3) the date on which its certificate of authority to do business in the Nation was filed with the Nation Clerk;
 - (4) that it surrenders its authority to do business in the Nation;
 - (5) that it revokes the authority of its registered agent, if any, previously designated, and that it consents that process against it in any action or special proceeding based upon any liability or obligation incurred by it within the Nation before the filing before filing of the certificate of surrender may be served on the Nation Clerk in the manner set forth in Code three of this Code; and
 - (6) a post office address within or without the Nation to which the Nation Clerk shall mail

a copy of any process against it served upon him or her.

807. TERMINATION OF EXISTENCE

When a foreign limited liability company that has received a certificate of authority is dissolved or its authority to conduct its business or existence is otherwise terminated or canceled in the jurisdiction of its formation or when such foreign limited liability company is merged into or consolidated with another foreign limited liability company, (a) a certificate of the Nation Clerk or official performing the equivalent function as to limited liability company records in the jurisdiction of organization of such limited liability company attesting to the occurrence of any such event of (b) a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign limited liability company, the termination of its existence or the surrender of its authority shall be delivered to the Nation Clerk. The filing of the certificate, order or decree shall have the same effect as the filing of a certificate of surrender of authority under section eight hundred six of this Code. The Nation Clerk shall continue as agent of the foreign limited liability company upon whom process against it may be served in the manner set forth in this Code, in any action or proceeding based upon any liability or obligation incurred by the foreign limited liability company within the Nation prior to the filing of such certificate, order or decree. The post office address may be changed by filing with the Nation Clerk a certificate of amendment under section eight hundred four of this Code.

808. DOING BUSINESS WITHOUT CERTIFICATE OF AUTHORITY

- (a) A foreign limited liability company doing business within the territorial jurisdiction of the Nation without having received a certificate of authority to do business within the territorial jurisdiction of the Nation may not maintain any action, suit or special proceeding in the court unless and until such limited liability company shall have received a certificate of authority in the Nation.
- (b) The failure of a foreign limited liability company that is doing business in the Nation to comply with the provisions of this Code does not impair the validity of any contract or act of the foreign limited liability company or prevent the foreign limited liability company from defending any action or special proceeding in the Court.
- (c) A member, manager or agent of a foreign limited liability company is not liable for the contractual obligations or other liabilities of the foreign limited liability company solely by reason of the limited liability company's doing or having done business in the Nation without having received a certificate of authority.
- (d) By doing business in the Nation without authority, a foreign limited liability company appoints the Nation Clerk as its agent for service of process with respect to causes of action arising out of doing business in the Nation. In any such case, process against such foreign limited liability company may be served upon the Nation Clerk in the manner set forth in this Code.

809. ACTION BY NATION PROSECUTOR

The Nation Prosecutor shall, upon his or her own motion or upon the motion of proper parties, bring an action to restrain a foreign limited liability company without a certificate of authority from doing any business in the Nation in violation of this Code or from doing any business in the Nation that is prohibited under the laws of the Nation. The Nation Prosecutor may bring an action or special proceeding to annul the authority of a foreign limited liability company that is doing any business in the Nation that is prohibited under the laws of the Nation. The Nation Prosecutor shall deliver a certified copy of the order of annulment to the Nation Clerk. Upon the filing thereof by the Nation Clerk, the certificate of authority of the foreign limited liability company to do business in the Nation shall be annulled, and the provisions of section eight hundred seven of this Code shall thereafter be applicable. The Nation Clerk shall continue as agent of the foreign limited liability company upon whom process against it may be served in any action, suit or special proceeding based upon any liability or obligation incurred by the foregoing foreign limited liability company within the Nation prior to the filing of the certified copy of the order of annulment by the Nation Clerk.

CHAPTER 10-MERGERS

1001. MERGER OR CONSOLIDATION

- (a) As used in this Code, "merger" means a procedure in which two or more limited liability companies or other business entities merge into a single limited liability company or other business entity that shall be one of the constituent limited liability companies or other business entities, and "consolidation" means a procedure in which two or more limited liability companies or other business entities consolidate into a single limited liability company or other business entity that shall be a new limited liability company or other business entity to be formed pursuant to the consolidation.
- (b) Pursuant to an agreement of merger or consolidation and to the extent not expressly prohibited by law, a domestic limited liability company may merge or consolidate with or into one or more domestic limited liability companies or other business entities formed or organized under the laws of the Nation, any other state or the United States or any foreign country or other foreign jurisdiction, with such domestic limited liability company or other business entity as the agreement shall provide being the surviving or resulting domestic limited liability company or other business entity.

1002. PROCEDURES FOR MERGER OR CONSOLIDATION

- (a) In connection with a merger or consolidation under this Code, rights or securities of, or interests in, a limited liability company or other business entity that is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited liability company or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited liability company or other business entity that is not the surviving or resulting limited liability company or other business entity in the merger or consolidation.
- (b) The members of each domestic limited liability company or other business entity shall adopt (with respect to a domestic limited liability company, in the manner provided in subdivision (c) of this section) an agreement of merger or consolidation, setting forth the terms and conditions of the conversion of the membership interests of the members of the domestic limited liability company into interests in the surviving or resulting limited liability company or other business entity or the cash or other consideration to be paid or delivered in exchange for membership interests in each domestic limited liability company, or a combination thereof.
- (c) The agreement of merger or consolidation shall be submitted to the members of each domestic limited liability company who are entitled to vote with respect to a merger or consolidation at a meeting called on twenty days' notice or such greater notice as the operating agreement may provide. Subject to any requirement in the operating agreement requiring approval by any

greater or lesser percentage in interest of the members who are entitled to vote with respect to a merger or consolidation, which shall not be less than a majority in interest of those members who are so entitled to vote, the agreement shall be approved on behalf of each domestic limited liability company (i) by such voting interests of the members as shall be required by the operating agreement, or (ii) if no provision is made, by the members representing at least two-thirds in interest of the members.

- (d) Notwithstanding authorization by the members, the agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment, if any, contained in the agreement of merger or consolidation.
- (e) Any member that is a party to a proposed merger or consolidation who is entitled to vote with respect to such proposed merger or consolidation may, prior to that time of the meeting at which such merger or consolidation is to be voted on, file with the domestic limited liability company written notice of dissent from the proposed merger or consolidation. Such notice of dissent may be withdrawn by the dissenting member at any time prior to the effective date of the merger or consolidation and shall be deemed to be withdrawn if the member casts a vote in favor of the proposed merger or consolidation.
- (f) Upon the effectiveness of the merger or consolidation, the dissenting member (referred to in subdivision (e) of this section) of any domestic limited liability company shall not become or continue to be a member of or hold an interest in the surviving or resulting limited liability company or other business entity but shall be entitled to receive cash from the surviving or resulting domestic limited liability company or other business entity the fair value of his or her membership interest in the domestic limited liability company as of the close of business of the day prior to the effective date of the merger or consolidation in accordance with section five hundred nine of this Code but without taking account of the effect of the merger or consolidation.
- (g) A member of a domestic limited liability company who has a right under this Code to demand payment for his or her membership interest shall not have any right at law or in equity under this Code to attack the validity of the merger or consolidation or to have the merger or consolidation set aside or rescinded, except in an action or contest with respect to compliance with the provisions of the operating agreement or subdivision (c) of this section.

1003. CERTIFICATE OF MERGER OR CONSOLIDATION; CONTENTS

(a) After approval of the agreement of merger or consolidation by each domestic limited liability company or other business entity merging or consolidating under this Code, unless the merger or consolidation is terminated in accordance with subdivision (d) of section ten hundred two of this Code, a certificate of merger or consolidation, entitled "Certificate of merger (or consolidation) of... and into...(names of domestic limited liability companies or other business entities) under section one thousand three of the Limited Liability Company Code," shall be signed and verified or affirmed under penalties of perjury on behalf of each domestic limited liability company and other business entity and delivered to the Nation Clerk. The certificate of merger or consolidation shall set forth:

- (1) the name and jurisdiction of formation or organization of each of the domestic limited liability companies or other business entities that is¹ to merge or consolidate;
- (2) for each domestic limited liability company that is to merge or consolidate, the date when its initial articles of organization were filed with the Nation Clerk under this Code;
- (3) that an agreement of merger or consolidation has been approved and executed by each of the domestic limited liability companies or other business entities that is to merge or consolidate;
- (4) the name of the surviving or resulting domestic limited liability company or other business entity;
- (5) the future effective date or time (which shall be a date or time certain) of the merger or consolidation in accordance with subdivision (b) of this section, if it is not to be effective upon the filing of the certificate of merger or consolidation;
- (6) if a domestic limited liability company is the surviving limited liability company, such charges in its articles of organization as shall be necessary by reason of the merger;
- (7) if a domestic limited liability company is the resulting limited liability company in a consolidation, the matters required to be set forth under section two hundred six of this Code;
- (8) if a constituent entity is a foreign limited liability company, the jurisdiction and date of filing of its initial articles of organization and the date when its application for authority was filed by the Nation Clerk or if no such application has been filed, a statement to such effect and (if the constituent foreign limited liability company is the surviving entity) that it is not to do business in the Nation until an application for such authority shall have been filed with the Nation Clerk;

- (9) if the surviving or resulting entity is not a domestic limited liability company, an agreement that such surviving or resulting other business entity may be served with the process in the Nation in any action or special proceeding for the enforcement of any liability or obligation of any domestic limited liability company previously amenable to suit in the Nation that is to merge or consolidate, and for the enforcement as provided in this Code, of the right of members of any domestic limited liability company to receive payment for their interest against the surviving or consolidated other business entity;
 - (10) a designation of the Nation Clerk as its agent upon whom process against it may be served in the manner set forth in this Code in any action or special proceeding, and post office address, within or without the Nation, to which the Nation Clerk shall mail a copy of any process served upon him or her. Such post office address shall supersede any prior address designated as the address to which process shall be mailed;
 - (11) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited liability company or other business entity, and shall state the address thereof; and
 - (12) that a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited liability company or other business entity, on request and without cost, to any member of any domestic limited liability company or any person holding interest in any other business entity that is to merge or consolidate.
- (b) The merger or consolidation shall be effective upon the filing thereof by the Nation Clerk of the certificate, or at such later date not more than thirty days after the date of such filing as the certificate filed may provide.

1004. EFFECT OF MERGER OR CONSOLIDATION

- (a) When any merger or consolidation shall have become effective under this Code, for all purposes of the laws of the Nation, all of the rights, privileges, immunities, powers and purposes of each of the domestic limited liability companies and other business entities that have merged or consolidated, and all property, real, personal and mixed, tangible and intangible, and all debts, obligations, liabilities, penalties and duties of such domestic limited liability companies and other business entities, as well as all other things belonging to each of such domestic limited liability companies and other business entities, shall be vested in the surviving or resulting domestic limited liability company or business entity, and shall thereafter be the property of the surviving or resulting domestic limited liability company or other business entity as they were of each of the domestic limited liability companies and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the Nation, in any of such domestic limited liability companies and other business entities, shall not revert or be in any way impaired by reason of this Code; but all rights of creditors and all liens upon any property of any such domestic limited liability companies and other business entities shall be preserved unimpaired, and all debts, obligations, liabilities, penalties and duties of each of such domestic limited liability companies and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited liability company or other business entity and may be enforced against it to the same extent as if such debts, obligations, liabilities, penalties and duties had been incurred or contracted by it.
- (b) When any merger or consolidation shall have become effective under this Code, no action, suit or proceeding, civil or criminal, then pending by or against any constituent limited liability company or other business entity in its common name shall abate or be discontinued by reason of such merger or consolidation, but may be prosecuted by or may proceed against such surviving or resulting domestic limited liability company or other business entity.
- (c) Unless otherwise agreed, a merger or consolidation of a domestic limited liability company, including a domestic limited liability company that is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited liability company to wind up its affairs under section seven hundred three of this Code or pay its liabilities and distribute its assets under section seven hundred four of this Code.
- (d) A certificate of merger or consolidation shall act as articles of dissolution for a domestic limited liability company that is not the surviving or resulting entity in the merger or consolidation.
- (e) Notwithstanding anything to the contrary contained in an operating agreement, an operating agreement containing a specific reference to this subdivision may provide that an agreement of merger or consolidation approved in accordance with subdivision (c) of section ten hundred two of this Code may (i) effect any amendment to the operating agreement or (ii) effect the adoption of a new operating agreement for a domestic limited liability company if it is the surviving or resulting domestic limited liability company in the merger or consolidation. Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to the

foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subdivision shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law, including that the operating agreement of any domestic limited liability company to the merger or consolidation (including a domestic limited liability company formed for the purpose of consummating a merger or consolidation) shall be the operating agreement of the surviving or resulting domestic limited liability company.

1005. PAYMENT OF INTEREST OF DISSENTING MEMBERS

- (a) Within ten days after the occurrence of an event described in section ten hundred two of this Code, the surviving or resulting domestic limited liability company or other business entity shall send to each dissenting former member a written offer to pay in cash the fair value of such former member's membership interest. Payment in cash shall be made to each former member accepting such offer within ten days after such notice of such acceptance is received by the surviving or resulting domestic limited liability company or other business entity.
- (b) If a former member and the surviving or resulting limited liability company or other business entity fail to agree on the price to be paid for the former member's membership interest within ninety days after the surviving or resulting domestic limited liability company or other business entity shall have made the offer provided for in subdivision (a) of this section, or if the domestic limited liability company or surviving domestic limited liability company or other business entity shall fail to make such an offer within the period provided for in subdivision (a) of this section, the procedure provided for in paragraphs (h), (i), (j), and (k) of section six hundred twenty-three of the business corporation law (or any successor provisions or statute) shall apply, as such paragraphs may be amended from time to time.
- (c) A payment under this section shall constitute a return of a member's contribution for the purposes of section five hundred eight of this Code.

1006. CONVERSION OF PARTNERSHIP OR LIMITED PARTNERSHIP TO LIMITED LIABILITY COMPANY

- (a) As used in this Code, unless the context otherwise requires, the term, "limited partnership" means a limited partnership formed under the laws of the Nation; and the terms "general partner," "limited partner," "majority in interest of the limited partners" and "two-thirds in interest of the limited partners" shall have the meanings assigned to such terms in the Oneida Indian Nation partnership law; and the term "partnership" shall have the meaning assigned to such term in the Oneida Indian Nation Partnership Code.
- (b) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.

- (c) Subject to any requirements in the partnership agreement requiring approval by any lesser percentage in interest of partners, an agreement of conversion setting forth the terms and conditions of a conversion of a partnership to a limited liability company must be approved by all of the partners of the partnership. Subject to any requirement in the partnership agreement requiring approval by any greater or lesser percentage in interest of limited partners, which shall not be less than a majority in interest, the terms and conditions of a conversion of a limited partnership to a limited liability company must be approved (i) by such vote of general partners as shall be required by the partnership agreement, or, if no provision is made, by all general partners, and (ii) by limited partners representing at least two-thirds in interest of each class of limited partners. The agreement of conversion shall be submitted to the general partners and limited partners of a limited partnership at a regular or special meeting called on twenty days notice or such other notice as the partnership agreement may provide. A dissenting limited partner shall have the rights provided in the Oneida Indian Nation partnership law and shall not be a member of the converted limited liability company. Notwithstanding authorization by the partners of a partnership or general partners or limited partners of a limited partnership, the conversion to a limited liability company may be abandoned pursuant to a provision for such abandonment, if any, contained in the agreement of conversion.
- (d) The agreement of conversion shall set forth the terms and conditions of the conversion of the interests of partners of a partnership or general partners and limited partners of a limited partnership, as the case may be, into membership interests in the converted limited liability company or the cash or other consideration to be paid or delivered as a result of the conversion of the interests of such partners, or a combination thereof.
- (e) After the conversion is approved under subdivision (c) of this section, the partnership or limited partnership shall satisfy all the requirements of section two hundred six of this Code and the articles of organization filed with the Nation Clerk shall include:
- (i) a statement that the partnership or limited partnership was, in accordance with the provisions of this Code, duly converted to a limited liability company from a partnership or limited partnership, as the case may be; and
 - (ii) its former name.
- (f) If the limited partnership is a domestic limited partnership, such domestic limited partnership shall cancel its certificate of limited partnership pursuant to the Oneida Indian Nation partnership law. The certificate of cancellation shall include the name of the limited liability company and a statement that the limited partnership will be converted into a limited liability company upon the filing of such certificate.
- (g) The conversion takes effect, in the case of a partnership, when the articles of organization are filed with the Nation Clerk or at any later date specified in the articles of organization or, in the case of a limited partnership, when the certificate of limited partnership is canceled.

- (h) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a conversion, remains liable as a partner or general partner, as the case may be, for any debt, obligation, liability and penalty incurred by the partnership or limited partnership before the conversion takes effect. A limited partner who becomes a member as a result of a conversion remains liable only as a limited partner for a debt, obligation, liability or penalty incurred by the limited partnership before the conversion takes effect. The partner's, general partner's or limited partner's liability, if any, for a debt, obligation, liability or penalty incurred by the limited liability company after the conversion takes effect is that of a member as provided in this Code.

1007. EFFECT OF CONVERSION

- (a) A partnership or limited partnership that has been converted pursuant to this Code is for all purposes the same entity that existed before the conversion;

- (b) When a conversion takes effect:

(i) all property, real and personal, tangible and intangible, of the converting partnership or limited partnership remains vested in the converted limited liability company;

(ii) all debts, obligations, liabilities and penalties of the converting partnership or limited partnership continue as debts, obligations, liabilities and penalties of the converted limited liability company;

(iii) any action, suit or proceeding, civil or criminal, then pending by or against the converting partnership or limited partnership may be continued as if the conversion had not occurred; and

(iv) to the extent provided in the agreement of conversion and in this Code, the partners of a partnership or the general partners and limited partners of a limited partnership shall continue as members in the converted limited liability company.

CHAPTER 11-MISCELLANEOUS

1101. FEES

Except as otherwise provided, the Nation Clerk shall collect the following fees pursuant to this Code:

- (a) For the reservation of a limited liability company name pursuant to section two hundred five of this Code, twenty dollars.
- (b) For the change of address of the post office address to which the Nation Clerk shall mail a copy of any process against the limited liability company served upon him or her pursuant to section three hundred one of this Code, twenty dollars.
- (c) For the statement of address of the post office address to which the Nation Clerk shall mail a copy of any process against the limited liability company served upon him or her pursuant to section three hundred one of this Code, nine dollars.
- (d) For the change of address of a registered agent for service of process by such registered agent pursuant to section three hundred two of this Code, twenty dollars.
- (e) For the resignation of a registered agent for service of process pursuant to section three hundred two of this Code, twenty dollars.
- (f) For filing articles of organization pursuant to section two hundred nine of this Code, two hundred dollars.
- (g) For filing a certificate of amendment pursuant to section two hundred eleven of this Code, sixty dollars.
- (h) For filing articles of dissolution pursuant to section seven hundred five of this Code, sixty dollars.
- (i) For filing restated articles of organization pursuant to section two hundred fourteen of this Code, sixty dollars.
- (j) For filing, a judicial dissolution pursuant to section seven hundred two of this Code, sixty dollars.
- (k) For filing an application for authority pursuant to section eight hundred two of this Code, two hundred fifty dollars.
- (l) For filing an amendment to an application for authority pursuant to section eight hundred four of

this Code, sixty dollars.

- (m) For filing a certificate of surrender of authority pursuant to section eight hundred six of this Code, sixty dollars.
- (n) For filing a certificate of termination of existence pursuant to section eight hundred seven of this Code, sixty dollars.
- (o) For filing a certificate of merger or consolidation pursuant to section ten hundred three of this Code, sixty dollars.

1102. RECORDS

- (a) Each domestic limited liability company shall maintain the following records, which may, but need not, be maintained in the Nation:
 - (1) if the limited liability company is managed by a manager or managers, a current list of the full name set forth in alphabetical order and last known mailing address of each such manager;
 - (2) a current list of the full name set forth in alphabetical order and last known mailing address of each member together with the contribution and the share of profits and losses of each member or information from which such share can be readily derived;
 - (3) a copy of the articles of organization and all amendments thereto or restatements thereof, together with executed copies of any powers of attorney pursuant to which any certificate or amendment has been executed;
 - (4) a copy of the operating agreement, any amendments thereto and any amended and restated operating agreement; and
 - (5) a copy of the limited liability company's federal, state and local income tax or information returns and reports, if any, for the three most recent fiscal years.
- (b) Any member may, subject to reasonable standards as may be set forth in, or pursuant to, the operating agreement, inspect and copy at his or her own expense, for any purpose reasonably related to the member's interest as a member, the records referred to in subdivision (a) of this section, any financial statements maintained by the limited liability company for the three most recent fiscal years and other information regarding the affairs of the limited liability company as is just and reasonable.
- (c) If provided in the operating agreement, certain members or managers shall have the right to keep confidential from other members for such period of time as such certain members or the managers deem reasonable, any information which such certain members or the managers

reasonably believe to be in the nature of trade secrets or other information the disclosure of which such certain members or the managers in good faith believe is not in the best interest of the limited liability company or its business or which the limited liability company is required by law or by agreement with a third party to keep confidential.

- (d) A limited liability company may maintain its records in other than a written form if such form is capable of conversion into written form within reasonable time.

1103. TRANSACTIONS OF BUSINESS OUTSIDE THE NATION

- (a) It is the intention of the Oneida Indian Nation by the enactment of this Code that the legal existence of a limited liability company formed under this Code be recognized beyond the limits of the Nation and that, subject to any reasonable registration requirements, any such limited liability company transacting business outside the Nation shall be granted the protection of full faith and credit.
- (b) The provisions of this Code shall determine the rights and obligations of a domestic limited liability company, organized under this Code, in commerce with foreign nations and among the several states, except as prohibited by applicable law.

1104. LIMITED LIABILITY COMPANIES PROHIBITED FROM INTERPOSING DEFENSE OF USURY

- (a) No domestic or foreign limited liability company shall hereafter interpose the defense of usury in any action.
- (b) The provisions of subdivision (a) of this section shall not apply to a domestic foreign limited liability company, the principal asset of which is the ownership of a one or two family dwelling, where it appears either that such limited liability company was formed, or that the controlling interest therein was acquired, within a period of six months prior to the execution by such limited liability company of a bond or note evidencing indebtedness, and a mortgage creating a lien for such indebtedness on such one or two family dwelling.

Any provision of any contract, or any separate written instrument executed prior to, simultaneously with or within sixty days after the delivery of any moneys to any borrower in connection with such indebtedness, whereby the defense of usury is waived or any such limited liability company estopped from asserting it, is hereby declared to be contrary to public policy and absolutely void.

- (c) The provisions of subdivision (a) of this section shall not apply to any action in which a limited liability company interposes a defense of criminal usury as described in the penal Code.

CHAPTER 12-PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

1201. DEFINITIONS

As used in this Code, unless the context otherwise requires, the term:

- (a) "Licensing authority" means the Oneida Indian Nation. For the purposes of this Code a person licensed by the State of New York pursuant to its education law shall be presumed to be licensed by the Oneida Indian Nation.
- (b) "Profession" includes any practice as an attorney and counselor-at-law, or a licensed physician, and those professions designated in title eight of the New York education law.
- (c) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.
- (d) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.
- (e) "Professional service limited liability company" means a limited liability company organized under this Code.
- (f) "Foreign professional service limited liability company" has the meaning given to it in subdivision (a) of section thirteen hundred one of this Code.
- (g) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within the Nation, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within the Nation or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by a licensing authority.

1202.LIMITED LIABILITY COMPANIES ORGANIZED UNDER OTHER PROVISIONS OF LAW

The provisions of this Code shall not apply to limited liability companies heretofore or hereafter duly formed under any other provision of law.

1203. FORMATION

- (a) One or more professionals each of whom is authorized by law to render a professional service within the Nation, or one or more professionals, at least one of whom is authorized by law to render a professional service within the Nation, may form, or cause to be formed, a professional service limited liability company for pecuniary profit under this Code for the purpose of rendering the professional service or services as such professionals are authorized to practice. With respect to a professional service limited liability company formed to provide medical services, each member of such limited liability company must be licensed to practice medicine in the Nation. With respect to a professional service limited liability company formed to provide dental services, each member of such limited liability company must be licensed to practice dentistry in the Nation. With respect to a professional service limited liability company formed to provide veterinary services, each member of such limited liability company shall be licensed to practice veterinary medicine. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural and/or landscape architectural services, each member of such limited liability company must be licensed to practice one or more of such professions in the Nation. In addition to engaging in such profession or professions, a professional service limited liability company may engage in any other business or activities as to which a limited liability company may be formed under section two hundred one of this Code. Notwithstanding any other provisions of this section, a professional service limited liability company (i) authorized to practice law may not engage in another profession or business or activities or (ii) which is engaged in a profession or other business or activities other than law may not engage in the practice of law.
- (b) The articles of organization of a professional service limited liability company shall meet the requirements of this Code and (i) shall state the profession or professions to be practiced by such limited liability company and (A) the names and residence addresses of all individuals who are to be the original members and the original managers, if any, of such limited liability company, and (B) the names and residence addresses or, if none, the business address of all shareholders, directors, officers, members, managers and partners of all professional service corporations, foreign professional service corporations, professional service limited liability companies, foreign professional service limited liability companies, registered limited liability partnerships, foreign limited liability partnerships, and professional partnerships who are to be the original members or managers, if any, who are individuals of such limited liability company, (ii) shall have attached thereto a certificate or certificates issued by the licensing authority or by the comparable authority of another state certifying that each of the proposed members and managers, if any, who are individuals is authorized by law to practice a profession that such limited liability company is being formed to practice and, if applicable, that one or more of such individuals are authorized to practice within the Nation each profession that such limited liability company will be authorized to practice, and (iii) if such proposed member or manager, if any, is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority or

by the comparable authority of another state shall certify either (1) that each proposed member or manager is authorized by law to practice a profession that such limited liability company is being formed to practice and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render a professional service within the Nation or (2) that one or more of such proposed members and one or more of such proposed managers, are authorized to practice within the Nation each profession that such limited liability company will be authorized to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within the Nation each profession that such limited liability company will be authorized to practice within the Nation and (B) there shall be attached to the articles of organization of the professional service limited liability company a certificate by an authorized officer of the jurisdiction of its formation that the professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, a certificate from the Nation Clerk that such foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under the Oneida Indian Nation business corporation law, under this Code or under the Oneida Indian Nation partnership law, as the case may be.

- (c) A thereof shall be filed by the professional service limited liability company with the licensing authority within thirty days after the filing of such certificate or amendment with the Nation Clerk.
- (d) A professional service limited liability company, other than a professional service limited liability company authorized to practice law, shall be under the supervision of Oneida Indian Nation Clerk and be subject to disciplinary proceedings and penalties, and its articles of organization shall be subject to suspension, revocation or annulment for cause.
- (e) A professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its articles of organization shall be subject to suspension, revocation or annulment for cause by, the Oneida Nation Court.
- (f) The order of suspension, revocation or annulment of the articles of organization of a professional service limited liability company pursuant to subdivisions (d) or (e) of this section shall be effective upon the filing of such order with the Nation Clerk.

1204. RENDERING OF PROFESSIONAL SERVICE

- (a) No professional service limited liability company may render a professional service except through individuals authorized by law to render such professional service, as individuals, provided, that nothing in this Code shall authorize a professional service limited liability company to render a professional service in the Nation except through individuals authorized by law to render such professional service as individuals in the Nation.
- (b) Each final plan and report made or issued by a professional service limited liability company practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects or land surveyors, respectively, who are in responsible charge of such plan or report.
- (c) Each report, diagnosis, prognosis and prescription made or issued by a professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.
- (d) Each record, transcript report and hearing report prepared by a professional service limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.
- (e) Each professional service limited liability company practicing public accounting or certified public accounting shall maintain records indicating the identity of each public accountant or certified public accountant, respectively, who was responsible for each report or statement that is issued, prepared or examined by such limited liability company.
- (f) Each opinion prepared by a professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements pursuant to subdivisions (b) through (f) of this section, each document prepared by a professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals.

1205. PROFESSIONAL RELATIONSHIPS AND LIABILITIES

- (a) Each member, manager, employee or agent of a professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services on behalf of such limited liability company.
- (b) Each shareholder, director, officer, employee, member, manager, partner, and agent of a professional service corporation, foreign professional service corporation, professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership that is a member, manager, employee or agent of a professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in his or her capacity as a member, manager, employee or agent of such professional service limited liability company.
- (c) The relationship of a professional to a professional service limited liability company with which such professional is associated, whether as member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law, or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership engaged in the practice of law, the Oneida Nation Court.

1206. PURPOSES OF FORMATION

No professional service limited liability company shall engage in any profession or professions other than those set forth in its articles of organization. A professional service limited liability company may only engage in a profession or professions as to which one or more of its members is authorized by law to render professional services in the Nation. In addition to engaging in such profession or professions, a professional service limited liability company may carry on, or conduct or transact any other business or other activities as to which a limited liability company may be formed under section two hundred one of this Code. Notwithstanding any other provision of this section, and subject to the next succeeding sentence of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or other business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of the Nation or any rule adopted by the appropriate appellate division of the Oneida Nation Court. Any professional service limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments.

1207.MEMBERSHIP OF PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

- (a) A member of a professional service limited liability company shall be only:
- (1) A professional, other than a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, authorized by law to practice in the Nation a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member;
 - (2) A professional, other than a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, authorized by law to practice in any foreign jurisdiction a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member; or
 - (3) A foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership authorized by law to practice in the Nation or in any foreign jurisdiction a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member.
- (b) With respect to a professional service limited liability company formed to provide medical services as such services, each member of such limited liability company must be licensed to practice medicine in the Nation. With respect to a professional service limited liability company formed to provide dental services, each member of such limited liability company must be licensed to practice dentistry in the Nation. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural and/or landscape architectural services, each member of such limited liability company must be licensed to practice one or more of such professions in the Nation.
- (c) No member of a professional service limited liability company shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person, other than another member of such limited liability company or professional who would be eligible to become a member of such limited liability company, the authority to exercise voting power of any or all of the membership interests of such limited liability company. All membership interests or proxies granted or agreements made in violation of this section shall be void.

1209. DISQUALIFICATION OF MEMBERS, MANAGERS AND EMPLOYEES

If any member, manager or employee of a professional service limited liability company who has been rendering professional service to the public becomes legally disqualified to practice his, her or its profession within the Nation, he, she or it shall sever all employment with and financial interests (other than interests as a creditor or vested rights under a bona fide retirement program) in such limited liability company forthwith or as otherwise provided in section twelve hundred ten of this Code. All provisions of law regulating the rendering of professional services by a person elected or appointed to a public office shall be applicable to a member, manager or employee of such limited liability company in the same manner and to the same extent as if fully set forth herein. Such legal disqualification to practice such profession within the Nation shall be deemed to constitute an irrevocable offer by the disqualified member to sell his, her or its membership interest to the professional service limited liability company, pursuant to the provisions of section twelve hundred ten of this Code or of the articles of organization or operating agreement, which ever is applicable. Compliance with the terms of such offer shall be specifically enforceable in the Oneida Nation Court. A professional service limited liability company's failure to enforce compliance with this provision shall constitute a ground for its dissolution.

1210. DEATH, DISQUALIFICATION OR DISSOLUTION OF MEMBERS

- (a) A professional service limited liability company shall purchase or redeem the membership interest of a member in case of such member's death or disqualification pursuant to the provisions of section twelve hundred nine of this Code or in the case of a member that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, dissolution or disqualification of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership (in the case of registered limited liability partnership, foreign limited liability partnership and professional partnership, other than a dissolution followed by a reconstruction where at least a majority of the total interests in the current profits of a successor partnership are held by partners of the predecessor partnership that was a registered limited liability partnership, foreign limited liability partnership or professional partnership who were partners of such predecessor partnership immediately prior to the dissolution of such predecessor partnership) or the death, dissolution or disqualification of all of its shareholders, members or partners, within six months after the appointment of the executor or administrator or other legal representative of the estate of such deceased member, or within six months after such disqualification or dissolution, at the book value of such membership interest as of the end of the month immediately preceding the death, disqualification or dissolution of the member as determined from the records of such limited liability company in accordance with its regular method of accounting. The operating agreement of such limited liability company may modify this section by providing for a shorter

period of purchase or redemption, or an alternate method of determining the price to be paid for the membership interest, or both. If such limited liability company shall fail to purchase or redeem such membership interest within the required period, a successful plaintiff in an action to recover the purchase price of such membership interest shall also be awarded reasonable attorneys' fees and costs. Nothing herein contained shall prevent such limited liability company from paying pension benefits or other deferred compensation to or on behalf of a former or deceased member, manager or employee thereof, or where such member, manager or employee is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, on behalf of a former or deceased shareholder, officer, director, member, manager, partner, or employee of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, as otherwise permitted by law. The provisions of this section shall not be deemed to require the purchase of the membership interest of a disqualified member where the period of disqualification is for less than six months and the member again becomes eligible to practice his or her profession within six months from the date of disqualification (or, in the case of a disqualified member that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, where the period of disqualification of such professional service corporation, foreign professional corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or all shareholders, members or partners of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership is for less than six months and such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or each such shareholder, member or partner becomes eligible to practice his or her profession within six months from the date of disqualification).

- (b) Notwithstanding the provisions of subdivisions (a) of this section, the professional service limited liability company shall not be required to purchase or redeem the membership interest of a deceased or disqualified or dissolved member if such membership interest, within the time limit prescribed by subdivision (a) of this section, is sold or transferred to another professional pursuant to the provisions of section twelve hundred eleven of this Code.

1211. TRANSFER OF A MEMBERSHIP INTEREST

- (a) No member of a professional service limited liability company may sell or assign his, her or its membership interest in such limited liability company except to another professional eligible to become a member of such limited liability company or except in trust to another professional who would be eligible to become a member if such professional were employed by such limited liability company.
- (b) Nothing contained in subdivision (a) of this section shall be constructed to prohibit the assignment of a membership interest by operation of law or by court decree. An assignee of a membership interest by operation of law or court decree shall have the rights of an assignee of a membership interest set forth in section six hundred three of this Code. Such assignee shall automatically become a member of the professional service limited liability company if such assignee would be eligible to be a member of such limited liability company and, a majority in interest of the members shall fail to redeem the membership interest so transferred, pursuant to section twelve hundred ten of this Code, within sixty days of receiving written notice of such transfer.
- (c) Any sale or transfer, except by operation of law or court decree or except for a professional service limited liability company having only one member, may be made only after the same shall have been approved by the vote or written consent of such proportion, not less than a majority in interest of the members, exclusive of the interest of the member proposing to sell or transfer such membership interest, as may be provided in the operating agreement of such professional service limited liability company. The voting interest held by the member proposing to sell or transfer his, her or its membership interest may not be voted or counted for any purpose, unless all the members consent that such interests be voted or counted. The professional service limited liability company may provide, in lieu of or in addition to the foregoing provisions, for the alienation of membership interests and may require the redemption of purchase of such membership interests by such limited liability company at prices and in a manner specifically set forth therein. The existence of the restrictions on the sale or transfer of a membership interest, as contained in this Code and, if applicable, in the operating agreement, shall be noted conspicuously on the face or back of every certificate representing a membership interest issued by a professional service limited liability company. Any sale or transfer in violation of such restrictions shall be void.

1212. LIMITED LIABILITY COMPANY NAME

- (a) Notwithstanding any other provision of law, the name of a professional service limited liability company may contain any word that, at the time of formation, could be used in the name of a partnership or professional service corporation practicing a profession that such limited liability company is authorized to practice and may not contain any word that could not be used by such partnership or professional service corporation; provided, however, the name of a professional service limited liability company may not contain the name of a deceased person unless:

- (1) such person's name was part of the name of such limited liability company at the time of such person's death; or
 - (2) such person's name was part of the name of an existing partnership or professional service corporation and at least two-thirds of such partnership's partners or corporation's shareholders, as the case may be, become members of such limited liability company.
- (b) A professional service limited liability company name shall end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC". The provisions of subdivision (a) of section two hundred four of this Code shall not apply to a professional service limited liability company.

1213. LIMITED LIABILITY COMPANY ACT APPLICABLE

A professional service limited liability company may consolidate or merge with another limited liability company formed under this Code, a foreign professional service limited liability company authorized to do business under this Code or other business entity, only if all of the professions practiced by such limited liability company, foreign limited liability company or other business entity could be practiced by a single limited liability company organized under this Code.

1214. MERGERS AND CONSOLIDATIONS

Notwithstanding any inconsistent provision of this Code, a professional service limited liability company, pursuant to the provisions of this Code, may be merged or consolidated with another limited liability company formed pursuant to the provisions of this Code, a foreign professional service limited liability company authorized to do business under article thirteen of this Code or other business entity formed or recognized under the laws of the Nation or any other state, provided that the limited liability company or other business entity that survives or that is formed pursuant thereto is a professional service limited liability company, a foreign professional service limited liability company authorized to do business under this Code or other business entity practicing the same profession or professions in the Nation or the Nation of its formation. The restrictions on the issuance, transfer or sale or membership interests of a professional service limited liability company other than the requirements of the first two sentences of subdivision (c) of section twelve hundred eleven of this Code, shall be suspended for a period not exceeding thirty days with respect to any issuance, transfer or sale of membership interests made pursuant to such merger or consolidation, provided that (a) no person or business entity who would not be eligible to be a member in the absence of this section shall vote or receive any distribution from such limited liability company; (b) after such merger or consolidation, any professional service limited liability company that survives or that is created thereby shall be subject to all the provisions of this Code; and (c) membership interests thereafter may be held only by persons or business entities who are eligible to be a member of such professional service limited liability company. Nothing herein contained shall be construed as permitting the practice of a profession in the Nation by a limited liability company that is not formed pursuant to the provisions of this Code or authorized to do

business in the Nation pursuant to the provisions of this Code.

CHAPTER 13-FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

1301. DEFINITIONS

As used in this Code, unless the context otherwise requires, the term:

- (a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than the Nation, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within the Nation and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within the Nation and who is or has been engaged in the practice of such profession in such professional service limited liability company or predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority to render a professional service within the Nation; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in the Nation shall be licensed in the Nation. With respect to a foreign professional service limited liability company which provides veterinary services, each member of such foreign professional service limited liability company shall be licensed to practice veterinary medicine. With respect to a foreign professional service limited liability company which provides medical services, each member of such foreign professional service limited liability company must be licensed to practice medicine in the Nation. With respect to a foreign professional service limited liability company which provides dental services, each member of such foreign professional service limited liability company must be licensed to practice dentistry in the Nation. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, architectural and/or landscape architectural services, each member of such foreign professional service limited liability company must be licensed to practice one or more of such professions in the Nation.
- (b) "Licensing authority" means, for the purposes of this Code, the State of New York.
- (c) "Profession" includes any practice as any attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the New York education law.
- (d) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional

service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.

- (e) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.
- (f) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within the Nation, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within the Nation or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the New York education law to render a professional service within the Nation; except that all partners of a professional partnership that provides medical services in the Nation must be licensed to practice medicine in the Nation and all partners of a professional partnership that provides dental services in the Nation must be licensed to practice dentistry in the Nation; and further except that all partners of a professional partnership that provides professional engineering, land surveying, architectural, and/or landscape architectural services in the Nation must be licensed to practice one or more of such professions.
- (g) "Professional service limited liability company" means a limited liability company organized under this Code.

1302. RENDERING OF PROFESSIONAL SERVICE

- (a) No foreign professional service limited liability company may render a professional service in the Nation except through individuals authorized by law to render such professional service as individuals in the Nation.
- (b) Each final plan and report made or issued by a foreign professional service limited liability company practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects, or land surveyors, respectively, who are in responsible charge of such plan or report.
- (c) Each report, diagnosis, prognosis and prescription made or issued by a foreign professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.
- (d) Each record, transcript, report and hearing report prepared by a foreign professional service

limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.

- (e) Each report and statement prepared by a foreign professional service limited liability company practicing public accounting or certified public accounting shall bear the signature of one or more public accountants or certified public accountants, respectively, who are in responsible charge of such report or statement.
- (f) Each opinion prepared by a foreign professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.
- (g) In addition to the requirements in subdivision (b) through (f) of this section, each document prepared by a foreign professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals licensed to practice in the Nation.

1303. PROFESSIONAL RELATIONSHIPS AND LIABILITIES

- (a) Each member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in the Nation on behalf of such limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering such professional services in the Nation and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of a profession in the Nation.
- (b) Each shareholder, director, officer, employee, member, manager, partner or agent of a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or professional partnership that is a member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in the Nation on behalf of such foreign professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in the Nation in his or her capacity as a member, manager, employee or agent of such foreign professional service limited liability company and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of the profession in the Nation.
- (c) The relationship of a professional to a foreign professional service limited liability company

with which such professional is associated, whether as a member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, engaged in the practice of law, the Oneida Nation Court.

1304. FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY

No foreign professional service limited liability company shall engage in any profession or carry on, or conduct or transact any other business or activities in the Nation other than the rendering of the professional services or the carrying on, or conducting or transacting of any other business or activities for which it is formed and is authorized to do business in the Nation; provided that such limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments; provided, further, that a foreign professional service limited liability company (i) authorized to practice law may only engage in another profession or other business or activities in the Nation or (ii) which is engaged in a profession or other business or activities other than law, may only engage in the practice of law in the Nation, to the extent not prohibited by any other law of the Nation or any rule adopted by the Oneida Nation Court.

1305. LIMITED LIABILITY COMPANY ACT APPLICABLE

Except for the provisions of sections eight hundred two and eight hundred nine of this Code, this Code shall be applicable to a foreign professional service limited liability company to the extent that the provisions thereof are not in conflict with the provisions of this Code. A foreign professional service limited liability company may practice in the Nation or may consolidate or merge with another limited liability company or other business entity, only if all of the professions practiced by such limited liability company or other business entity could be practiced by a single professional service limited liability company organized in the Nation.

1306. FILING REQUIREMENTS

(a) A foreign professional service limited liability company may apply for authority to do business in the Nation. An application entitled "Application for authority...(name of limited liability company) under section thirteen hundred six of the Limited Liability Company Code," shall be signed and verified by an authorized person for the limited liability company and delivered to the Nation Clerk. It shall set forth:

- (1) the name of the foreign professional service limited liability company. If the name does not end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C.", or "LLC", it shall in addition to the foregoing set forth the name to be used in the Nation, ending with the words "Professional Limited Liability Company" or "Limited Liability

Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C.", or "LLC";

- (2) the jurisdiction and date of its formation;
- (3) a statement of the profession or professions to be practiced in the Nation and a statement that the foreign professional service limited liability company is authorized to practice such profession or professions in the jurisdiction of its formation;
- (4) the name, address and, where applicable, license number of each professional within the foreign professional service limited liability company who is licensed to practice the profession or professions in the Nation;
- (5) the address where its office is to be located;
- (6) a designation of the Nation Clerk as its agent upon whom process against it may be served and the post office address within or without the Nation to which the Nation Clerk shall mail a copy of any process against it served upon him or her; and
- (7) if it is to have a registered agent, his or her name and address within the Nation and a statement that the registered agent is to be its agent upon whom process against it may be served.

(b) Attached to the application for authority shall be:

- (1) a certificate by an authorized officer of the jurisdiction of its formation that the foreign professional service limited liability company is an existing limited liability company;
- (2) a certificate or certificates issued by the licensing authority that each professional within such limited liability company who is an individual and intending to practice the profession or professions in the Nation is licensed to practice said profession or professions in the Nation and for each such professional that is a professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority shall certify either (i) that each such professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership intending to practice a profession in the Nation is authorized by law to practice in the Nation the profession that such foreign limited liability company intends to practice in the Nation and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render the professional service that such foreign limited liability company intends to practice in the Nation or (ii) that one or more of such professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership,

foreign limited liability partnership or professional partnership, intending to practice a profession in the Nation is authorized by law to practice in the Nation the profession that such foreign limited liability company intends to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within the Nation each profession that such foreign limited liability company will be authorized to practice within the Nation and (B) there shall be attached to the application for authority a certificate by an authorized officer of the jurisdiction of its formation that the professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service limited liability company or foreign limited liability partnership, a certificate from the Nation Clerk that such foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under the laws of the Nation; and

- (3) a certificate or certificates, issued by the licensing authority in the case of a foreign professional service limited liability company providing health services, stating that each member or manager of the foreign professional service limited liability company is licensed to practice said profession in the Nation.

- (c) The fee for filing the application for authority shall be two hundred dollars, payable to the Nation Clerk.

1308. REGULATION OF PROFESSIONS

- (a) A foreign professional service limited liability company, other than a foreign professional service limited liability company authorized to practice law, shall be under the supervision of the Nation Clerk and be subject to disciplinary proceedings and penalties, and its authority to do business shall be subject to suspension, revocation or annulment for cause.
- (b) A foreign professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its authority to do business shall be subject to suspension, revocation or annulment for cause by the Oneida Nation Court.

1309. LICENSING OF INDIVIDUALS

No member, manager or employee of a foreign professional service limited liability company who is an individual shall practice his or her profession in the Nation unless such individual is duly licensed to practice such profession in the Nation.