

CORPORATE LAW PARALEGAL

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ALL OF THE BELOW DUTIES ARE ASSUMED TO, AND MUST BE, UNDER THE DIRECTION AND SUPERVISION OF A LICENSED ATTORNEY.

A. PRIOR TO FORMATION OF A LEGAL ENTITY

1. Review state statutes and rules regarding formation in home jurisdiction and qualification in foreign jurisdictions.
2. Review jurisdiction records for name availability – both home and foreign.
3. Reserve name, if necessary.
4. If not for profit, review any IRS guidelines for formation, together with any ancillary documents, such as covenants, conditions and restrictions, which might also contain provisions for formation and govern ongoing matters.
5. If a professional entity, review State statutes and/or Court Rules (in the case of a law firm), as appropriate, regarding formation, including but not limited to, requirements and restrictions regarding shareholders, directors, and officers.
 - a. Also review any requirements regarding formation and/or licensing promulgated by State or local professional licensing boards.
6. Work with attorney to assemble information and prepare a formation checklist, including documents to be drafted and/or filed, and specific provisions to be included in the organizational documents.
7. Become familiar with service companies, such as Corporation Service Company or CT Corp., which are available to provide forms, assist with filing in foreign jurisdictions, and to serve as registered agent.

B. INCORPORATION AND ORGANIZATION OF CORPORATIONS

1. For Profit:
 - a. Draft Articles or Certificate of Incorporation for attorney review;

b. File Articles or Certificate of Incorporation with appropriate office in the jurisdiction of formation:

(i) Publish same, if required;

(ii) Draft and file any initial reports or requests for information required by the State upon formation;

(iii) Draft and file any license applications required by the State to do business;

c. File Statements or Certificates of Registration or Qualification to do business in foreign jurisdictions, if applicable;

(i) Publish same, if required;

(ii) Draft for attorney review, and file any initial reports, or requests for information, required by the State; and

(iii) Draft for attorney review and file any license applications required by the State to do business.

d. Notify Registered Agent(s) of appointment to service in each jurisdiction, and contract for same; provide contact information for service of process, billing, and correspondence;

e. Contact, and contract for, independent director, if required for a special purpose entity;

f. Draft and file assumed name certificates, if required, in appropriate jurisdictions;

g. Draft, for attorney review, additional organizational documents, including:

(i) Bylaws;

(ii) Notice and minutes, or consent, of organizational meeting;

(iii) Subscription Agreements;

(iv) Investment letters;

(v) Shareholder Agreements;

(vi) Stock Certificates, including restrictive legends;

- (vii) Banking resolutions;
- (viii) Employment agreements;
- (ix) Stock option plans;
- (x) Option agreements;
- (xi) Profit sharing and pension plans;
- (xii) Employee benefit plans; and
- (xiii) Health and accident plans.

h. Draft for attorney review, and file Form SS-4, Application for Federal Employer Identification Number (Form SS-4 and instructions for filing can be found at www.irs.gov):

(i) Draft for attorney review, and file Form 2553, Small Business Election, if corporation is to be a Subchapter S corporation (Form 2553 and instructions for filing can be found at www.irs.gov).

i. Follow IRS guidelines to determine, and obtain adequate documentation of, timely filing;

j. Draft for attorney review, and file Section 83(b) elections, if required;

k. Draft for attorney review, and file Certificates of Designation for Preferred Stock issuance, if required;

l. Prepare and maintain record book containing organizational documents and ongoing minutes of action;

m. Obtain corporate seal, if necessary;

n. If outside investors:

(i) Determine whether issuance of stock must be registered with the SEC, or if an exemption is available Federally;

(ii) If registration is required, see Corporate Securities Paralegal Guidelines;

(iii) If exemption is available, perform Blue Sky research and prepare Blue Sky Memorandum with regard to investor states of residence (see Corporate Securities Paralegal Guidelines);

(iv) Tickle filing deadlines;

(v) Draft for attorney review, and file forms required by the SEC and applicable States to either give notification of, or claim, the exemption (the CCH Blue Sky Law Reporter, either in hard copy or on-line subscription, is a good resource for forms and filing requirements);

o. Refer to Corporate Securities Paralegal Guidelines with regard to stock options and employee benefit plans; and

p. Draft, for attorney review, special minutes for ongoing corporate activities requiring the approval of shareholders and/or directors.

2. Nonprofit:

a. Review IRS guidelines to determine type of nonprofit (*i.e.*, 501(c)(3), homeowners association, *etc.*) – see IRS Publication 557, and Packages 1023 (Application for Recognition of Exemption under Section 501(c)(3)) or 1024 (Application for Recognition of Exemption under Section 501(a)) (publications and forms can be obtained at www.irs.gov);

b. Draft for attorney review Articles or Certificate of Incorporation, including any provisions or restrictions required by the State or IRS with regard to the form of nonprofit corporation;

c. File Articles or Certificate of Incorporation in the State of formation;

d. File Statements or Certificates of Registration or Qualification to do business in foreign jurisdictions, if applicable:

(i) Publish same, if required;

(ii) Draft for attorney review, and file any initial reports, or requests for information, required by the State;

(iii) Draft for attorney review and file any license applications required by the State to do business;

e. Draft, for attorney review, and file registration with the State if required to solicit contributions;

f. Notify Registered Agent of appointment to service, and contract for same; provide information for service of process, billing and correspondence;

g. Draft, for attorney review, additional organizational documents, including:

(i) Bylaws;

(ii) Notice and minutes, or consent, of organizational meeting; and

(iii) Banking resolutions.

h. Draft for attorney review, and file Form SS-4, Application for Federal Employer Identification Number, for banking and income tax return purposes (Form SS-4 and instructions for filing can be found at www.irs.gov);

i. Prepare and maintain record book containing organizational documents and ongoing minutes of action;

j. Tickle deadlines for applications to be filed with the IRS, as determined by type of nonprofit entity;

k. Coordinate with client to complete necessary applications, including financial information, for timely filing with the IRS;

l. Tickle dates for director/member meetings;

m. Tickle triggers for any special matters (such as appointment or replacement of Directors, *etc.*); and

n. Draft, for attorney review, special minutes for ongoing corporate activities requiring the approval of members and/or directors.

3. Professional:

a. Draft Articles or Certificate of Incorporation for attorney review;

b. File Articles or Certificate of Incorporation with appropriate governmental body in State of formation:

(i) Publish same, if required;

(ii) Draft and file any initial reports or requests for information required by the State upon formation; and

(iii) Draft and file any license applications required by the State to do business.

c. File Statements or Certificates of Registration or Qualification to do business in foreign jurisdictions, if applicable:

(i) Publish same, if required;

(ii) Draft for attorney review and file any initial reports required by the State; and

(iii) Review state and local professional boards' or Court rules with regard to any requirements for licensure and/or reporting in that jurisdiction.

d. Draft for attorney review and file any license applications required by the State(s) to do business;

e. Notify Registered Agent(s) of appointment to service, and contract for same; provide contact information for service of process, billing, and correspondence;

f. Draft and file assumed name certificates, if required, in appropriate jurisdictions;

g. Draft, for attorney review, additional organization documents, including:

(i) Bylaws;

(ii) Notice and minutes, or consent, of organizational meeting;

(iii) Subscription Agreements;

(iv) Investment letters;

(v) Shareholder Agreements;

(vi) Stock Certificates, including restrictive legends; and

(vii) Banking resolutions.

h. Draft for attorney review, and file Form SS-4, Application for Federal Employer Identification Number (Form SS-4 and instructions for filing can be found at www.irs.gov);

i. Prepare and maintain record book containing organizational documents and ongoing minutes of action;

- j. Obtain corporate seal, if necessary;
- k. See Corporate Securities Paralegal Guideline with regard to stock options; and
- l. Draft, for attorney review, special minutes for ongoing corporate activities requiring the approval of shareholders and/or directors.

C. FORMATION OF LIMITED LIABILITY COMPANY

1. Draft Articles of Organization or Certificate of Formation for attorney review.
2. File Articles of Organization or Certificate of Formation with appropriate governmental body in State of formation:
 - a. Publish same, if required;
 - b. Draft and file any initial reports required by the State;
 - c. Draft and file any license applications required by the State to do business.
3. File Statements or Certificates of Registration or Qualification to do business in foreign jurisdictions, if applicable:
 - a. Publish same, if required;
 - b. Draft for attorney review and file any initial reports required by the State;
 - c. Draft for attorney review and file any license applications required by the State to do business;
 - d. Register or qualify Manager(s) or managing member to do business, if same is required by foreign jurisdiction.
4. Notify Registered Agent(s) of appointment to service, and contract for same; provide contact information for service of process, billing, and correspondence.
5. Contact, and contract for, independent Manager/Director, if required for a special purpose entity.
6. Draft and file assumed name certificates, if required, in appropriate jurisdictions.

7. Draft, for attorney review, additional organization documents, including:
 - a. Operating Agreement [while it is possible for the paralegal to draft the basic form of operating agreement including standard language, incorporating additional provisions based upon the checklist for formation, the attorney should take primary responsibility for drafting the provisions of the operating agreement, as this is the governing document with regard to capitalization, profits and loss allocations, distributions, tax matters, powers of the manager, additional capital contributions, vote requirements, *etc.*];
 - b. Subscription Agreements;
 - c. Investment letters;
 - d. Member Interest Certificate (if used);
 - e. Banking resolutions; and
 - f. Employment agreements.
8. Draft for attorney review, and file Form SS-4, Application for Federal Employer Identification Number (occasionally not required for single-member limited liability companies) (Form SS-4 and instructions for filing can be found at www.irs.gov).
9. Draft for attorney review, and file Section 83(b) elections, if required.
10. Prepare and maintain record book containing organizational documents and ongoing minutes of action.
11. If outside investors:
 - a. Determine whether issuance of member interests must be registered with the SEC, or if an exemption is available Federally;
 - b. If registration is required, see Corporate Securities Paralegal Guidelines;
 - c. If exemption is available, perform Blue Sky research and prepare Blue Sky Memorandum with regard to investor States of residence (see Corporate Securities Paralegal Guidelines);
 - d. Tickle filing deadlines;
 - e. Draft for attorney review, and file forms required by the SEC and applicable States to either give notification of, or claim, the exemption (the CCH Blue

Sky Law Reporter, either in hard copy or on-line subscription, is a good resource for forms and filing requirements).

12. Draft, for attorney review, special minutes for ongoing company activities requiring the approval of members and/or managers.

D. FORMATION OF LIMITED PARTNERSHIPS

1. Draft Certificate of Limited Partnership for attorney review.
2. File Certificate of Limited Partnership with appropriate governmental body in State of formation:
 - a. Publish same, if required;
 - b. Draft and file any initial reports required by the State; and
 - c. Draft and file any license applications required by the State to do business.
3. Prepare for attorney review, and file, registration as limited liability limited partnership (LLLP), if limited liability desired for general partner(s).
4. File Statements or Certificates of Registration or Qualification to do business in foreign jurisdictions, if applicable:
 - a. Publish same, if required;
 - b. Draft for attorney review and file any initial reports required by the State;
 - c. Draft for attorney review and file any license applications required by the State to do business; and
 - d. Register or qualify General Partner, if same is required by foreign jurisdiction.
5. Notify Registered Agent(s) of appointment to service, and contract for same; provide contact information for service of process, billing, and correspondence.
6. Draft and file assumed name certificates, if required, in appropriate jurisdictions.
7. Draft for attorney review, additional organization documents, including:

a. Agreement of Limited Partnership (while it is possible for the paralegal to draft the basic form of partnership agreement including standard language and incorporating additional provisions based upon the checklist, the attorney should take primary responsibility for drafting the provisions of the partnership agreement, as this is the governing document with regard to capitalization, profit and loss allocations, distributions, requirements for further contributions, tax matters, *etc.*);

b. Subscription Agreements;

c. Investment letters; and

d. Banking resolutions.

8. Draft for attorney review, and file Form SS-4, Application for Federal Employer Identification Number (Form SS-4 and instructions for filing can be found at www.irs.gov).

9. Draft for attorney review, and file Section 83(b) elections, if required.

10. Prepare and maintain record book containing organizational documents and ongoing minutes of action.

11. Monitor transfer of limited partner interests, and adequate documentation of same.

12. With regard to limited partnership interests:

a. Determine whether issuance of limited partner interests must be registered with the SEC, or if an exemption is available Federally;

b. If registration is required, see Corporate Securities Paralegal Guidelines;

c. If exemption is available, perform Blue Sky research and prepare Blue Sky Memorandum with regard to investor states of residence;

d. Tickle filing deadlines;

e. Draft for attorney review, and file forms required by the SEC and appropriate States to either give notification of, or claim, the exemption; or, in the alternative, register the offering (the CCH Blue Sky Law Reporter, either in hard copy or on-line subscription, is a good resource for forms and filing requirements);

f. Assist with drafting offering memoranda; and

g. Monitor distribution of offering memoranda.

13. Draft, for attorney review, special minutes for ongoing partnership activities requiring the approval of general and/or limited partners.

E. FORMATION OF GENERAL PARTNERSHIPS

1. Prepare for attorney review, and file, registration as limited liability partnership (LLP), if available in applicable jurisdiction, and if limited liability is desired for general partner(s).

2. Draft and file Statements of Trade Name, or registration of same, if required, in appropriate jurisdictions (*i.e.*, with the county if the partnership owns real estate).

3. Draft, for attorney review, additional organizational documents, including:

a. Partnership Agreement (while it is possible for the paralegal to draft the basic form of partnership agreement including standard language and incorporating additional provisions based upon the checklist, the attorney should take primary responsibility for drafting the provisions of the partnership agreement, as this is the governing document with regard to capitalization, profit and loss allocations, distributions, requirements for further contributions, tax matters, *etc.*); and

b. Banking resolutions.

4. Draft for attorney review, and file Form SS-4, Application for Federal Employer Identification Number (Form SS-4 and instructions for filing can be found at www.irs.gov).

5. Prepare and maintain record book containing organizational documents and ongoing minutes of action.

6. Draft, for attorney review, special minutes for ongoing partnership activities requiring the approval of the partners.

F. ON GOING MATTERS

1. Maintain tickler system for compliance matters with regard to home state and foreign jurisdictions for periodic filings, such as:

a. Annual reports;

b. Franchise tax reports; and

c. Statements of information.

2. Maintain tickler system for governance items, such as annual meetings, events triggered by agreements, *etc.*
3. Draft for attorney review documents for annual meeting:
 - a. Notice;
 - b. Proxy;
 - c. Affidavits of mailing;
 - d. Agenda;
 - e. Ballots;
 - f. Oaths of judges of election;
 - g. Minutes of proceedings; and
 - h. Written consents in lieu of the above.
4. Draft for attorney review and file, if required, amendments to organizational documents.
5. Draft for attorney review, and file on-going jurisdictional compliance documents.
6. Review operative documents, and draft special consents with regard to activities requiring specific approval.
7. Draft for attorney review stock powers or assignments for corporations:
 - a. Review, and comply with, applicable restrictions with regard to assignments contained in the organizational documents, shareholder agreements, SEC rules, *etc.*
8. Draft for attorney review membership assignments or assignments of partnership interests:
 - a. Review organizational agreements with regard to requirements and/or restrictions governing such assignments, and comply with same.
9. Assist attorney with mergers and acquisitions/venture capital transactions:
 - a. Research Blue Sky issues with regard to the merger or acquisition:

- (i) Prepare Blue Sky memorandum;
 - (ii) Draft and file any State pre-offering notices required;
 - (iii) Draft and file appropriate documents to either claim exemption from registration or register the offering, if required; and
 - (iv) See Corporate Securities Paralegal Guidelines.
- b. Prepare drafts of merger or purchase agreements for attorney review;
- c. Participate in due diligence investigation, including UCC and other lien searches;
- d. Draft closing checklists and closing memorandum;
- e. Draft required consents to merger or acquisition;
- f. Obtain consents to assignments, releases, and signatures on consent resolutions and other documents as appropriate;
- g. Coordinate filing of merger documents (in multiple states, if applicable);
- h. Draft and file appropriate documents for withdrawal in States where non-survivor in a merger is qualified;
- i. Draft and file qualification of merger survivor in foreign States where necessary;
- j. Draft stock certificates, as appropriate;
- k. Draft for attorney review any resignations of officers, directors, *etc.* as required;
- l. Research and coordinate with governmental agencies to replace or transfer any required licenses;
- m. Draft for attorney review any notices required to be filed with various agencies regarding change of entity or ownership;
- n. Manage assembly and execution of documents at closing;
- o. Prepare closing files and bound volumes;

p. Prepare, file and/or record financing statements, security agreements or amendments, transfer of ownership, and related documents; and

q. Supervise share exchanges for public companies or multiple shareholders.

10. Assist attorney with Tender Offers, including:

a. Review entity documents with regard to requirements and restrictions which would apply to a tender offer;

b. Review Securities and Exchange Act of 1934 for rules regarding tender offers;

c. Assemble list of investors; update and confirm addresses;

d. Perform Blue Sky research and prepare Blue Sky Memorandum with regard to investor states of residence (see Corporate Securities Paralegal Guideline);

e. Draft closing checklists and closing memorandum;

f. Draft documents, including:

(i) Consents;

(ii) Investor letters;

(iii) Tender Offer Agreement; and

(iv) Indemnification Agreements.

g. Review and comply with requirements in community property states;

h. Coordinate with Investors to obtain execution and return of acceptance or refusal of tender offer;

i. Cancel and issue stock certificates, as appropriate; update stock ledgers; and

j. Draft and manage distribution of final notice to shareholders/partners.

11. Assist attorney with Conversions and Redomestications, including:

- a. Research state laws with regard to conversions from one form of entity to another;
- b. Draft and obtain the required consents to the conversion or redomestication;
- c. Draft and file the necessary documents with the appropriate jurisdictions to effect the conversion or redomestication;
- d. Draft the appropriate formation documents for the new form of entity; and
- e. Draft and file IRS notices, as required.

12. Assist attorney with Liquidation and Dissolution, including:

- a. Draft plan and agreement of liquidation;
- b. Draft resolutions authorizing same;
- c. Draft and file articles of withdrawal (or comparable document) required by foreign jurisdictions where qualified to do business;
- d. Coordinate with client to file final State tax returns and obtain tax clearance – both in the home jurisdiction and where qualified, if necessary to dissolve or withdraw respectively;
- e. Draft and file articles of dissolution (or comparable document) in jurisdiction of formation;
- f. Draft documents with regard to distribution of entity property; and
- g. Coordinate with client and/or client's accountant to draft and file necessary documents with the IRS.

13. Monitor compliance with State abandoned property (escheat) laws and inform attorney.

14. Monitor and report to attorney changes in filing, reporting, and franchise tax laws or regulation.

15. Draft for attorney review consents to amendment, and amendments to documents, as required.

16. Coordinate filing of amendments with State(s), as required.

17. Assist attorney in structuring and ordering various searches as needed, including UCC financing statements, tax liens, bankruptcy, litigation and judgment.

18. Draft certifications of documents and incumbency certificates.

19. Draft for attorney review and file various federal and state forms, if applicable, including:

a. Application for Worker's Compensation;

b. Application for Unemployment Insurance;

c. Application for Employer Withholding Tax Registration;

d. Application for State Sales Tax License;

e. Application for City Sales Tax License; and

f. Appropriate licenses to operate specific businesses, such as liquor, pharmaceutical, hotel, *etc.*

20. Obtain apostilles from State officials as needed.