

Table of Contents

PART I ORGANIZATION

CHAPTER 1: INTRODUCTION	1-1
1.1. Nature and Use of This Practice Manual.	1-3
1.2. Comparison of the LLC with Other Entities.....	1-4
1.3. History of the LLC.....	1-5
Table 1. Comparison of Illinois Limited Liability Companies, Limited Partnerships, S Corporations, C Corporations and Limited Liability Partnerships.....	1-7
1.4. Classification of the LLC as a Partnership for Federal Income Tax Purposes.....	1-14
1.4.1. Introduction.....	1-14
1.4.2. Consequences of Failing to Obtain Partnership Classification.....	1-14
1.4.3. Understanding the Categorization Rules Applicable to Domestic LLCs.....	1-15
1.4.3.1. LLCs Organized on or after January 1, 1997.....	1-16
1.4.3.2. LLCs Organized before January 1, 1997, for Periods before January 1, 1997.....	1-17
1.4.3.3. LLCs Organized before January 1, 1997, for Periods on or after January 1, 1997.....	1-18
1.4.3.4. Elections.....	1-19
1.4.3.5. Single-Member LLCs.....	1-21
Table 2. Revenue Rulings and Revenue Procedures Pertinent to Limited Liability Companies.....	1-27
Table 3. Selected Private Letter Rulings Pertinent to Limited Liability Companies.....	1-28
1.5. The Illinois Limited Liability Company Act — An Overview ..	1-30
1.6. Some Features of the Act.....	1-31
1.6.1. Term of the LLC.....	1-31
1.6.2. Written Operating Agreement.....	1-31
1.6.3. Manager vs. Authorized Person.....	1-32

CONTENTS

1.6.4.	Standards of Care and Fiduciary Duties.	1-32
1.6.5.	Profits and Losses.	1-32
1.6.6.	Conversions and Mergers	1-33
1.6.7.	Dissolution and Dissociation	1-33
1.6.8.	ULLCA-Type Provisions	1-33
1.6.9.	Single-Member LLC Operating Agreements	1-33
1.6.10.	No Limitations on Power to Withdraw.	1-34
1.7.	Secretary of State Regulations	1-34

CHAPTER 2: FORMATION AND ORGANIZATION 2-1

2.1.	Introduction	2-3
2.2.	Preformation Matters.	2-3
2.3.	Articles of Organization	2-4
2.3.1.	Basic Requirements	2-4
	Form 2-A. Statement of Authority	2-6
	Form 2-B. Statement of Denial.	2-7
	Form 2-1. Articles of Organization	2-9
2.3.2.	Optional Provisions	2-11
2.3.2.1.	Provision Limiting Agency Authority of Members	2-11
	Form 2-2. Limitation Statement for Articles of Organization with Restrictions on Authority.	2-12
2.3.2.2.	Provision Requiring Written Operating Agreement	2-12
	Form 2-3. Articles of Organization with a Requirement That the Operating Agreement Be in Writing.	2-13
2.3.2.3.	Provision Creating Personal Liability for the LLC’s Debts	2-13
	Form 2-4. Form Regarding Personal Liability of Members	2-13
2.4.	Articles of Amendment	2-14
	Form 2-5. Manager Resolution Approving Amendment of Articles of Organization and Directing That the Amendment Be Submitted to Members for Approval	2-14
	Form 2-6. Consent of Members to Amend Articles of Organization (Articles Require Unanimous Consent).	2-15

Form 2-7.	Consent of Members to Amend Articles of Organization Where Unanimity Is Not Required	2-16
Form 2-8.	Articles of Amendment	2-16.2
Form 2-9.	Statement of Correction	2-16.4
2.5.	Reservation of Name	2-16.5
2.6.	Change of Registered Agent and Change of Address of Registered Agent	2-16.5
Form 2-10.	Resignation of Registered Agent	2-16.6
Form 2-10A.	Statement of Change of Registered Agent and/or Registered Office	2-16.7
2.7.	Assumed Names	2-16.9
Form 2-11.	Application to Adopt, Change, Cancel or Renew an Assumed Name	2-16.10
Form 2-11A.	Application to Reserve, Cancel or Transfer a Name	2-16.12
2.7A.	Administrative Dissolution	2-16.14
Form 2-12.	Annual Report	2-16.15
Form 2-12A.	Application for Reinstatement Following Administrative Dissolution or Revocation	2-16.16
2.8.	Miscellaneous Filing Matters	2-16.17
2.9.	Series of Members, Managers or Limited Liability Company Interests	2-16.17
2.9.1.	Federal Tax Consequences of Series LLCs	2-18
2.9.1.1.	Federal Tax Significance of Classification	2-18.1
2.9.1.2.	Important Definitions	2-18.2
2.9.1.3.	Overview of Proposed Regulations	2-18.2
2.9.1.4.	Proposed Regulations' Treatment of a Series as a Juridical Entity	2-18.4
2.9.1.5.	Proposed Regulations' Treatment of Series Organization	2-18.7
2.9.1.6.	Status of Members and Managers Associated with a Series	2-18.8
2.9.1.7.	Classification of the Series Under the Check-the-Box Regulations	2-18.9
2.9.1.8.	Issues Not Addressed in Proposed Regulations	2-18.9
2.9.1.8.1.	Foreign Series	2-18.9
2.9.1.8.2.	Employment Taxes	2-18.9
2.9.1.8.3.	Employee Benefits	2-18.10
2.9.1.9.	Planning Possibilities	2-18.10

CONTENTS

2.9.1.10. Effective Date 2-18.11
2.9.1.11. Lack of Other Guidance. 2-18.12
Form 2-13. Articles of Organization of a Series LLC 2-18.13
Form 2-14. Provision Authorizing Manager or
Manager-Managed Limited Liability
Company to Designate Separate Series
and Classes of Members and Interests. 2-19
Form 2-15. Provision Designating Separate Series of
Members and Interests. 2-21
2.10. Limited Liability Companies Organized as L3Cs. 2-29
2.11. Domestication of a Foreign LLC. 2-30
Form 2-16. Statement of Domestication. 2-31
Form 2-16A. Statement of Conversion or Domestication
Abandonment. 2-32

**PART II
OPERATIONS**

CHAPTER 3: THE OPERATING AGREEMENT. 3-1
3.1. In General 3-2
3.2. “Operating Agreement”. 3-3
3.2.1. Single-Member Operating Agreements 3-3
3.2.2. Form of Single-Member LLC Operating
Agreement 3-4.2
3.3. Flexibility of LLC Form 3-4.2
3.4. Form of Operating Agreement 3-5
3.5. Formality of Adoption. 3-5
3.6. Amendment. 3-5
3.6.1. In General. 3-5
3.6.2. Formality Required. 3-6
3.7. Form Operating Agreements 3-6
CHAPTER 4: ORGANIZATION. 4-1
4.1. Drafting LLC Organization Provisions 4-3
4.2. Introductory Paragraph 4-3
Form 4-1. Introductory Paragraph — Names Parties 4-3
Form 4-2. Introductory Paragraph — Does Not Name
Parties. 4-4
4.3. Background to Agreement. 4-4
Form 4-3. Explanatory Statement. 4-4
4.4. Confirmation of Agreement. 4-4
Form 4-4. Confirmation of Agreement 4-5

4.5.	Definitions	4-5
4.5.1.	“Interest” Compared to “Membership Rights”	4-5
4.5.2.	“Interest Holder” Compared to “Member”	4-5
	Form 4-5. General Definitions	4-6
4.6.	General Agreement to Organize LLC	4-8
	Form 4-6. General Agreement to Organize LLC	4-8
	Form 4-7. Organizational Provision Confirming That Articles of Organization Have Been Filed.	4-8
4.7.	Name	4-9
	Form 4-8. Name Provision for Member-Managed LLC.	4-9
	Form 4-9. Name Provision for Manager-Managed LLC	4-9
4.8.	Purpose	4-10
	Form 4-10. Any Lawful Purpose	4-10
	Form 4-11. Specific Purpose.	4-10
	Form 4-12. Purpose Limited to Real Estate	4-10
4.9.	Term.	4-11
	Form 4-13. Term Commences on Date of Filing of Articles.	4-11
	Form 4-14. Term Commences upon Execution of Operating Agreement.	4-12
4.10.	Principal Office	4-12
	Form 4-15. Registered Office and Principal Place of Business of LLC Managed by Members	4-12
	Form 4-16. Registered Office and Principal Place of Business of LLC Managed by Managers.	4-13
4.11.	Registered Agent	4-13
	Form 4-17. Registered Agent	4-13
4.12.	Members	4-13
	Form 4-18. Schedule of Members Set Forth in Exhibit	4-14
	Form 4-19. Schedule of Members Set Forth in Text of Agreement	4-14
	Form 4-20. Schedule of Members (without Percentages)	4-15
4.13.	Ratification of Organizer’s Actions	4-15
	Form 4-20a. Ratification of Organizer’s Actions and Indemnification	4-15
4.14.	Miscellaneous Provisions	4-16
	Form 4-21. Miscellaneous Provisions	4-16
CHAPTER 5: LIMITED LIABILITY COMPANY CAPITAL . . .		5-1
5.1.	Drafting Capital Provisions	5-3
5.2.	Initial Capital Contributions	5-3
	Form 5-1. Initial Capital Contributions in Cash	5-4

CONTENTS

Form 5-2.	Initial Capital Contributions — Partly in Cash and Partly in Services	5-4
Form 5-3.	Initial Capital Contributions — Partly in Cash and Partly in Property	5-5
Form 5-4.	Representation in Connection with Contribution of Property	5-5
5.3.	Additional Capital Contributions	5-5
Form 5-5.	Additional Capital Contributions at Discretion of Manager — Limit on Amount	5-6
Form 5-6.	Additional Capital Contributions at Discretion of Members — Limit on Amount	5-6
Form 5-7.	No Liability Beyond Initial Capital Contribution	5-7
Form 5-8.	No Liability Beyond Additional Capital Contributions	5-7
5.4.	Default in Payment of Contributions	5-7
Form 5-9.	Remedy of Reduction of Member’s Interest in Event of Failure to Make Contribution to Manager-Managed LLC	5-8
5.5.	Interest on Capital Contributions	5-9
Form 5-10.	No Interest on Capital Contributions	5-9
Form 5-11.	Interest on Capital Contributions	5-9
5.6.	Return of Capital Contributions	5-10
Form 5-12.	Return of Capital Contributions — Unanimous Consent of Members and Compliance with Act Required	5-10
5.7.	Form of Distribution	5-10
Form 5-13.	Form of Distribution — Right to Receive Anything but Cash	5-11
Form 5-14.	Form of Distribution — Form of Distribution Is at Discretion of Manager in Manager-Managed LLC	5-11
5.8.	Capital Accounts	5-11
Form 5-15.	Capital Accounts (Simple Definition)	5-11
5.9.	Loans	5-12
Form 5-16.	Loans — General Authority of LLC to Borrow Money from Members on Terms to Be Agreed upon in Future	5-12
Form 5-17.	Loans — Authority to Make Specific Loan with General Authority to Borrow Money from Members on Terms to Be Agreed upon in Future	5-12

CHAPTER 6:	ALLOCATION AND DISTRIBUTION PROVISIONS	6-1
6.1.	Taxation of the LLC	6-3
6.2.	General Allocation and Distribution Concepts	6-3
6.3.	Distribution Restrictions under the Act	6-4
6.4.	Allocation Restrictions — Code Section 704(b)	6-4
6.4.1.	Overview	6-4
6.4.2.	The Three Alternative Allocation Tests	6-5
6.4.2.1.	The First Test: Partners' Interests in the Partnership	6-6
6.4.2.2.	The Second Test: Substantial Economic Effect and Capital Accounts	6-6
6.4.2.3.	The Third Test: Nonrecourse Debt	6-7
6.4.3.	Allocations to Interest Holders	6-9
6.5.	Definitions	6-10
6.5.1.	Distribution-Related Definitions	6-10
Form 6-1.	Distribution Definitions	6-10
6.5.2.	Allocation-Related Definitions	6-11
Form 6-2.	Tax Definitions	6-11
6.6.	Basic Distribution Provisions	6-14
6.6.1.	In General	6-14
6.6.2.	Cash Flow from Operations	6-16
Form 6-3.	Distributions of Cash Flow	6-16
6.6.3.	Distribution of Capital Proceeds	6-16
Form 6-4.	Distribution of Capital Proceeds	6-17
6.6.4.	Liquidation Proceeds	6-17
Form 6-5.	Liquidation and Dissolution	6-18
Form 6-6.	Liquidation and Dissolution — Deficit Restoration Obligation	6-18
Form 6-7.	Liquidation and Dissolution (Cash Controls)	6-20
6.7.	Basic Allocation Provisions	6-21
6.7.1.	Basic Allocations of Income and Loss	6-21
Form 6-8.	Profit or Loss	6-21
6.7.2.	Qualified Income Offset and Minimum Gain Chargeback	6-22
Form 6-9.	Qualified Income Offset and Minimum Gain Chargeback	6-23
6.7.3.	Minimum Gain Chargeback—Member Nonrecourse Debt	6-23
Form 6-10.	Minimum Gain Chargeback—Member Nonrecourse Debt	6-24

CONTENTS

6.7.4.	Other Regulatory Allocations	6-24
	Form 6-11. Regulatory Allocations; Withholding	6-26
6.7.5.	General Provisions	6-28
	Form 6-12. General Provisions	6-28
6.8.	Complex and Disproportionate Distribution and Allocation Provisions	6-29
6.8.1.	Distribution Preferences	6-29
	Form 6-13. Distribution Preference	6-30
6.8.2.	Disproportionate Allocation of Losses	6-31
	Form 6-14. Disproportionate Allocation of Loss	6-31
6.8.3.	Flip-Flops	6-32
	Form 6-15. Flip-Flop on Sale (Capital Accounts Control)	6-33
	Form 6-16. Flip-Flop on Sale (Cash Controls) . .	6-35
	Form 6-17. Tax Distributions	6-36
CHAPTER 7: MANAGEMENT PROVISIONS		7-1
7.1.	Drafting LLC Management Provisions	7-3
	7.1.1. General Flexibility under the Act	7-3
	7.1.2. Typical Approaches	7-4
	7.1.3. Titles	7-5
7.2.	Member-Managed LLC Provisions	7-5
	Form 7-1. Simple Member-Management Provision	7-6
	Form 7-2. Member-Management but with Appointment of Ministerial Manager	7-6
7.3.	Representative Management	7-6
	7.3.1. Management by a “General Partner”-Like Manager .	7-7
	Form 7-3. Manager with “General Partner”-Like Authority	7-7
	Form 7-4. Manager with “General Partner”-Like Authority — Alternate Form	7-10
	7.3.2. Management by Management Committee	7-11
	Form 7-5. Management Committee	7-11
	7.3.3. Management by One Class of Members	7-12
	Form 7-6. Definition of Class A and Class B Members	7-13
	Form 7-7. Management by Class A Members (Class B Members Not Agents)	7-13

	Form 7-8.	Management by Class A Members (Class B Members Remain Agents) .	7-14
7.3.4.		Management of LLCs Engaging in Securitized Loan Transactions	7-14
	Form 7-9.	Restrictions for Purposes of Bankruptcy Remoteness	7-15
7.3.5.		Appointment of Officers.	7-18
	Form 7-10.	Appointment of Officers	7-19
7.4.		Replacement of Managers	7-20
	Form 7-11.	Removal of Manager for Any Reason	7-20
	Form 7-12.	Removal of Manager for Only Specified Reasons	7-20
7.5.		Meetings of Members	7-21
	Form 7-13.	Procedure for Calling and Holding Meetings . .	7-21
7.6.		Informal Action of Members; Form of Member Consents	7-22
	Form 7-14.	Informal Actions	7-22
	Form 7-15.	Form of Consent of Members	7-23
7.7.		Super-Majorities	7-25
7.8.		Deadlock and Resolution	7-25
	Form 7-16.	Arbitration of Deadlock.	7-25
	Form 7-17.	Russian Roulette in the Event of Deadlock . . .	7-26
	Form 7-18.	Releases under Russian Roulette Resolution Procedure	7-29
7.9.		Compensation and Reimbursement.	7-30
	Form 7-19.	No Arrangement for Compensation (Member-Managed)	7-30
	Form 7-20.	Compensation (Manager-Managed)	7-30
	Form 7-21.	Extraordinary Compensation.	7-31
7.10.		Standard of Care and Degree of Loyalty.	7-31
	Form 7-22.	Standard of Care and Duty of Loyalty.	7-33
	7.10.1.	Exclusivity	7-33
		Form 7-23.	Investment Opportunities 7-34
	7.10.2.	Use of Advisory Committee.	7-34
		Form 7-24.	Advisory Committee. 7-34
7.11.		Indemnification	7-36
	Form 7-25.	Liability and Indemnification of Members (Manager-Managed)	7-37
	Form 7-26.	Liability and Indemnification of Members (Member-Managed)	7-37
7.12.		Power of Attorney	7-37
	Form 7-27.	Power of Attorney	7-38

CHAPTER 8:	TRANSFER AND BUY-SELL PROVISIONS	8-1
8.1.	The Act’s Default Rules for Transfers	8-3
8.2.	Tax Aspects of Transfer Restrictions	8-4
8.2.1.	Termination of the LLC	8-4
8.2.2.	Basis Issues	8-4
8.3.	Preliminary Drafting Considerations	8-5
Form 8-1.	Definitional Provision — Transfer	8-5
Form 8-2.	Definitional Provisions — Interest and Membership Rights	8-6
8.4.	Drafting Transfer Provisions That Permit Free Transferability of Interests	8-6
Form 8-3.	Free Transferability of Interests and Rights	8-7
8.5.	Drafting Transfer Provisions That Absolutely Prohibit Transfers of Any Kind	8-7
Form 8-4.	Absolute Prohibition of Transfers	8-7
8.6.	Drafting Transfer Provisions That Permit Transfers Only on Certain Conditions	8-8
8.6.1.	In General	8-8
Form 8-5.	Transfer Permitted on Satisfaction of Certain Conditions	8-8
8.6.2.	First Refusal Rights	8-9
Form 8-6.	Right of First Refusal; LLC Purchases; Installments Allowed	8-10
Form 8-7.	Right of First Refusal; Member’s Purchase Payment Terms Matched	8-11
Form 8-8.	Right of First Offer; LLC Purchases; Cash Purchase	8-13
8.6.3.	Admission of Transferee as a Member	8-14
Form 8-9.	Transferee Not Admitted as Member without Consent of Members	8-15
Form 8-10.	Transferee Automatically Admitted as Member	8-15
8.6.4.	Transfers to Members’ Affiliates and Family	8-15
Form 8-11.	Definitional Provision — Family	8-16
Form 8-12.	Transfers to Affiliates and Family	8-16
Form 8-12a.	Alternative Form Permitting Family Transfers	8-17
8.7.	Dissociation under the Act	8-17
8.7.1.	Voluntary Withdrawal	8-17
Form 8-13.	Voluntary Withdrawal Defined	8-19

	Form 8-14.	Voluntary Withdrawal (Manager-Managed LLC) — Not Permitted	8-19
	Form 8-14a.	Voluntary Withdrawal (Member-Managed LLC) — Dissociation Wrongful	8-19
	8.7.2.	Involuntary Withdrawal	8-19
	Form 8-15.	Involuntary Withdrawal Defined	8-20
8.8.		Consequences of Dissociation in General	8-21
	Form 8-16.	Successor of Withdrawn Member Continues as Unadmitted Assignee.	8-21
8.9.		Creating Buy-out Rights	8-22
	Form 8-17.	Optional Buy-out; Company Buys; Cash Purchase	8-22
	Form 8-18.	Mandatory Buy-out; Members Buy; Installments Permitted	8-23
	Form 8-19.	Successor of Withdrawn Member Continues as Substitute Member	8-24
8.10.		Valuation Provisions	8-25
	Form 8-20.	Agreed Value	8-25
	Form 8-21.	Book Value.	8-26
	Form 8-22.	Appraised Value	8-27
8.11.		Miscellaneous Transfer Provisions	8-27
	Form 8-23.	Installment Buy-outs	8-28
	Form 8-24.	Insolvency Form	8-28
	Form 8-25.	Members Not Required to Assume Company’s Obligation	8-29
8.12.		Member Interest Purchase and Sale Agreement	8-29
CHAPTER 9: DISSOLUTION			9-1
9.1.		LLC Dissolution: General	9-2
9.2.		Overview of the Act’s Dissolution Provisions.	9-2
	Form 9-1.	Dissolution — Comprehensively Describes All Events of Dissolution;	9-4
	Form 9-2.	Dissolution Requires Unanimity of Members Not to Continue if Dissolution Is Due to Dissociation of Member	9-5
	Form 9-3.	Dissolution — Refers to Events of Withdrawal under Another Section; Requires Unanimity of Members to Elect Not to Continue if Dissolution Is Due to Dissociation of Member.	9-5

CONTENTS

9.4.	Vote Required in Order to Continue After Event of Dissolution	9-6
	Form 9-4. Less Than Unanimous Vote Required to Continue After Dissolution	9-6
	Form 9-5. Sample Resolutions Approving Continuation of Business After Dissolution	9-7
9.5.	Articles of Termination	9-8
	Form 9-6. Statement of Termination.	9-9
	Form 9-7. Filing of Articles of Termination	9-10
9.6.	Procedure for Winding Up and Distribution of Assets	9-10
	Form 9-8. Procedure for Winding Up in Member-Managed LLC	9-11
	Form 9-9. Procedure for Winding Up in Manager-Managed LLC	9-11
	Form 9-10. Procedure for Winding Up in Member-Managed LLC; Reference to Another Section of Operating Agreement for Manner of Distribution to Members	9-11
	Form 9-11. Procedure for Winding Up in Manager-Managed LLC; Reference to Another Section of Operating Agreement for Manner of Distribution to Members	9-12
	Form 9-12. Procedure for Winding Up and Distribution of Assets in Manager-Managed LLC — Manager Acts as Liquidating Trustee	9-12
CHAPTER 10: BOOKS, RECORDS, AND ACCOUNTING		10-1
10.1.	Introduction	10-3
10.2.	Banking	10-3
	Form 10-1. Bank Accounts	10-3
10.3.	Records	10-4
	Form 10-2. Maintenance of Records — Member-Managed LLC (Short Form)	10-4
	Form 10-3. Maintenance of Records — Manager-Managed LLC (Short Form)	10-4.1
	Form 10-4. Maintenance of Records — Manager-Managed LLC (Long Form)	10-5
10.4.	Accounting Period	10-5
	Form 10-5. Calendar Year Accounting Period Specified . . .	10-6
	Form 10-6. Fiscal Year Accounting Period Specified	10-6
	Form 10-7. Year to Be Determined by Members	10-6
	Form 10-8. Annual Accounting Period Established by Managers	10-6

10.5.	Reports	10-7
	Form 10-9. Preparation of Reports (Short Form) for Member-Managed or Manager-Managed LLC .	10-7
	Form 10-10. Preparation of Reports (Long Form) for Manager-Managed LLC	10-7
10.6.	“Tax Matters Partner”	10-8
	Form 10-11. Tax Matters Partner (Short Form)	10-9
	Form 10-12. Tax Matters Partner (Medium Form).....	10-9
	Form 10-13. Tax Matters Partner (Long Form)	10-9
10.7.	Tax Elections.....	10-11
	Form 10-14. Tax Elections	10-11
	Form 10-15. Tax Elections — Applies to Code Section 754 Only — For Use in Either Member-Managed or Manager-Managed LLC	10-11
10-8.	Title to Property.....	10-12
	Form 10-16. Title to Property — In Company Name.	10-12
	Form 10-17. Title to Company Property — Use of Nominee Permitted	10-12

**PART III
MISCELLANEOUS**

CHAPTER 11:	REORGANIZATION OF THE LLC	11-1
11.1.	In General	11-2.1
11.2.	Admission of New Members.....	11-2.1
	11.2.1. Acquisition of Interest from Company.....	11-2.1
	Form 11-1. Simple Subscription Agreement for LLC Membership Interest.	11-3
	Form 11-2. Long Form Subscription Agreement for LLC Membership Interest.	11-5
	Form 11-3. First Amendment to Operating Agreement Admitting Assignee of Interest as a Member.	11-9
	11.2.2. Acquisition of Interest from Another Member.	11-12
	Form 11-4. Assignment of LLC Membership Right	11-13
	Form 11-5. Joinder Agreement	11-18
11.3.	Conversion or Merger of an Existing Entity into an LLC.....	11-18
	11.3.1. In General.....	11-18
	11.3.2. Merger of an Existing Entity into an LLC.....	11-19
	Form 11-6. Articles of Merger.....	11-21
	11.3.3. Statutory Conversion of an Existing Entity into an LLC	11-24

CONTENTS

Form 11-6A. Statement of Conversion 11-26

11.3.4. Conversion of General Partnership to LLC 11-26.1

Form 11-7. Agreement to Convert General Partnership to Limited Liability Company 11-27

Form 11-8. Explanatory Statement — Conversion of General Partnership into LLC. 11-29

Form 11-9. Term Is Continuation of Term of Partnership 11-30

Form 11-10. Initial Capital Contributions — In Property Consisting of Partnership Interests in LLC’s Predecessor 11-30

Form 11-11. Assignment of General Partnership Interests to LLC 11-31

Form 11-12. Resolutions of Members Approving Liquidation of Partnership into LLC 11-32

11.3.5. Conversion of Limited Partnership into LLC 11-32

11.3.6. Conversion of Corporation into LLC 11-32

11.4. Conversion of an LLC into a Corporation. 11-35

11.5. Recapitalizing the LLC 11-36

Form 11-13. Form of Amendment of Operating Agreement 11-37

CHAPTER 12: DOING INTERSTATE BUSINESS. 12-1

12.1. Foreign LLCs Doing Business in Illinois 12-2

12.1.1. Governing Law 12-2

12.1.2. Definition of Doing Business 12-2

12.1.3. Procedure for Registration 12-2

12.1.4. Filing Fee 12-2

12.1.5. Issuance and Cancellation of Registration 12-3

12.1.6. Doing Business without Admission 12-3

12.1.7. Name Registration 12-3

12.2. Illinois LLCs Doing Business Outside of Illinois 12-4

CHAPTER 13: PROFESSIONAL LIMITED LIABILITY COMPANIES. 13-1

13.1. Historical Background. 13-2

13.2. Overview 13-3

13.3. Certified Public Accountants 13-10

13.4. Attorneys 13-11

13.5. Other Professionals 13-16

CHAPTER 14: MISCELLANEOUS FORMS	14-1
14.1. Responsibilities for Losses Derived from Guarantees of LLC Obligations	14-2
Form 14-1. Indemnity and Contribution Agreement — Obligation Guaranteed Only by Members.	14-3
 CHAPTER 15: COMPENSATION STRATEGIES FOR THE LLC.	15-1
15.1. Introduction	15-3
15.2. IRC Section 83: Stock Grants and Options	15-6
15.3. Capital and Profits Interests	15-6.2
15.4. LLC (Partnership) vs. Corporation Compensation Methods. . . .	15-10
15.4.1. Corporation Context	15-10
15.4.1.1. Stock Grants	15-10
15.4.1.2. Stock Options	15-11
15.4.1.3. Phantom Stock Plans	15-11
15.4.2. The LLC Context	15-12
15.4.2.1. Equity Interests	15-13
15.4.2.1.1. “Full Equity Interest”	15-13
15.4.2.2. Point System or Unit Compensation	15-14
15.4.2.3. The Importance of Member Involvement	15-15
15.4.2.4. Debt Guarantees	15-16
15.4.2.5. Equity Interest vs. Non-equity Incentive Compensation	15-16
15.4.3. Compensation Comparison Chart	15-17
15.5. Phantom Income and Tax Affected Distributions	15-20
15.5.1. Tax Affected Distributions	15-20
15.5.1.1. Separate Calculations for Each Member	15-21
15.5.1.2. Standard Distribution Rate	15-22
15.5.1.3. Highest Incremental Tax Rate	15-23
15.5.2. Self-Employment Tax	15-25
15.5.2.1. Calculating Self-Employment Income . .	15-25
15.5.2.2. Application of Self-Employment Tax to LLC Members	15-26
15.6. Fiduciary Duties, Inspection Rights, and Other Duties to Equity Holders	15-26
15.6.1. <i>Five Star Concrete, L.L.C. v. Klink</i>	15-26.1
15.7. Securities Law Issues	15-27
15.8. Forms: Equity and Non-equity-Based LLC Compensation Plan	15-27
15.8.1. Unit Grant Agreement	15-27

CONTENTS

Form 15-1. Unit Grant Agreement 15-28
15.8.2. Employee Incentive Compensation Plan 15-33
Form 15-2. Communications, LLC: Employee
Incentive Compensation Plan 15-33

**PART IV
APPENDICES**

APPENDIX A: [MEMBER-MANAGED] OPERATING
AGREEMENT OF _____ LIMITED
LIABILITY COMPANY APP A-1

APPENDIX B: [MANAGER-MANAGED] OPERATING
AGREEMENT OF _____ LIMITED
LIABILITY COMPANY APP B-1

APPENDIX C: PROFESSIONAL SERVICES OPERATING
AGREEMENT OF _____ LIMITED
LIABILITY COMPANY APP C-1

APPENDIX D: THE ILLINOIS LIMITED LIABILITY
COMPANY ACT APP D-1

APPENDIX E: REVENUE PROCEDURE 95-10 APP E-1

APPENDIX F: REVENUE RULING 95-37 APP F-1

APPENDIX G: SERIES OPERATING AGREEMENT APP G-1

APPENDIX H: ILLINOIS SECRETARY OF STATE
REGULATIONS APP H-1

APPENDIX H1: IRS SERIES LLC REGULATIONS APP H1-1

APPENDIX I: CODES FOR PRINCIPAL BUSINESS
ACTIVITY AND PRINCIPAL PRODUCT
OR SERVICE APP I-1

APPENDIX J: OPERATING AGREEMENT OF FLYING
SOLO LLC APP J-1

APPENDIX K: PRIOR LAW ON FEDERAL TAX
CLASSIFICATION APP K-1

APPENDIX L: CHECK-THE-BOX REGULATIONS APP L-1

APPENDIX M: IRS FORM 8832 APP M-1

APPENDIX N: APPLICATION FOR CERTIFICATE OF
REGISTRATION TO ENGAGE IN THE
PRACTICE OF LAW AS A LIMITED
LIABILITY COMPANY APP N-1

APPENDIX O: STATE LLC FEES AND OTHER
INFORMATION APP O-1

APPENDIX P: MEMBERSHIP INTEREST PURCHASE AGREEMENT APP P-1

**PART V
LLP AND LLC CASES**

LLP and LLC Cases LLC Cases-1

**PART VI
INDICES**

Cumulative Table of Illinois Limited Liability Company Act
 Sections. INDEX-1
Cumulative Table of Internal Revenue Code Citations. INDEX-5
Cumulative Table of Treasury Regulations INDEX-7
Cumulative Revenue Rulings and Revenue Procedures INDEX-9
References. INDEX-10
Table of Cases INDEX-13
Private Letter Ruling INDEX-14
Subject Index INDEX-15
Forms Index INDEX-28

