

JAMESTOWN S'KLALLAM TRIBE
TRIBAL CODE
TITLE 11 – BUSINESS CORPORATION CODE

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**Chapter 11.01
General Provisions**

Sections:

Section 11.01.01 Title

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Section 11.01.01 Title

This Title shall be known and may be cited as the Jamestown S’Klallam Tribal Business Corporation Code.

Section 11.01.02 Findings

- A. American Indian Tribes have been consistently recognized throughout the history of the United States of America to retain as governmental powers, where consistent with the trusteeship of the United States, all powers necessary to commercially utilize their undivided Tribal resources for the economic benefit of the Tribe and to organize corporations to do so. This Title is intended to exercise and implement Tribal corporate, economic, and commercial powers which are hereby declared by the Tribe to be of the same nature as all other Tribal powers, pursuant to the provisions of the Constitution of the Tribe;
- B. The Tribe and its citizens have endured two (2) centuries of economic deprivation and oppression. This fact has been recognized by the Congress of the United States through numerous Acts intended to assist in the development of Indian resources. There is a need and an opportunity to develop Tribal resources to provide a standard of living and education to all Tribal citizens equal to that of all citizens of the United States. The Tribe adopts this Title in order to meet the following independent goals:
 - 1. To carry out a Tribal constitutional mandate;
 - 2. To develop and manufacture Tribal resources to obtain the highest value possible for those resources;
 - 3. To raise the standard of living, increase employment opportunities, insure availability of health care and provide educational opportunities for all Tribal citizens; and
 - 4. To enter into and take advantage of other business and commercial opportunities available to the Tribe to generate new revenues for Tribal programs and services.
- C. To accomplish the goals set out above, the Council hereby finds that for purposes of efficiency and wise stewardship, it is necessary for the management of the economic development of Tribal resources to be separated from other governmental functions of the Tribe and placed within the responsibility of persons or entities different from the Council so that commercial development may take place within, and be based upon, the sphere of the economic marketplace rather than within the sphere of Tribal political concerns; and
- D. The Tribe operates governmental programs to protect and advance the economic and social welfare of Tribal citizens and to assure the health and security of all citizens of the Tribe. To support these programs, the Tribe has depended to a great degree in the past upon federal grants and contracts. It is intended that the corporations created under this Title will increase the revenues to the Tribe so that the Tribe may become more self-sufficient without federal or state funds; so that Tribal governmental services to its citizens may be improved; and the Tribe reach the goal of true self determination. These revenues may be used by the Tribe to:
 - 1. Fund governmental programs for the protection, security and needs of Tribal citizens;

2. Relieve poverty among Tribal citizens;
3. Protect its sovereignty, treaty rights and cultural history;
4. Restore its land base; and
5. Diversify its economic base.

Section 11.01.03 Definitions

The following terms shall have the respective meanings:

- A. “Articles” means the original or reinstated articles of incorporation or articles of consolidations and all amendments thereto including articles of merger;
- B. “Authorized Shares” means the shares of all classes of stock which the corporation is authorized to issue;
- C. “Capital Surplus” means the portions of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfer to stated capital and capital surplus to the extent such distribution and transfers are made out of earned surplus;
- D. “Class A Corporations” means a corporation wholly or majority owned by the Tribe, or a subsidiary of a Class A corporation which is wholly or majority owned by a Class A corporation;
- E. “Class B Corporations” means all corporations, other than Class A corporations, chartered under this Title or foreign corporations licensed to do business on the Tribe’s Reservation or Trust Land;
- F. “Class of Stock” means a category of stock issued with its own particular indices of ownership, such as common stock or preferred stock. A corporation with both common and preferred stock would be referred to as having two (2) classes of stock;
- G. “Corporation or Domestic Corporation” means a corporation for profit subject to the provisions of this Title;
- H. “Council” means the Tribal Council, the governing body of the Tribe;
- I. “Earned Surplus” means the portions of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital or otherwise, after deducting subsequent distributions to shareholders and transfer to stated capital and capital surplus to the extent such distribution and transfers are made out of earned surplus;
- J. “Employee” includes officers, but not directors of a corporation. A director may accept duties which make them also an employee;
- K. “Insolvent” means inability of a corporation to pay its debts as they become due in the usual course of its business;
- L. “Net Assets” means the difference between total assets on the one hand and current liabilities and non-capitalized long-term liabilities on the other hand;

- M. “Paid-in Capital” is the total of Stated Capital and Paid-in Surplus;
- N. “Personal property” means all property owned by a corporation not included under the definition of real property, below. This includes such items as equipment, vehicles, etc.;
- O. “Real property” means land and any permanent improvements and fixtures attached to the land, such as buildings;
- P. “Shareholder” means one who is a holder of record or shares in a corporation; in the case of a Class A Corporation, it is the Tribe acting through the Tribal Council;
- Q. “Shares” means the units into which the proprietary interests in a corporation are divided;
- R. “Stated Capital” means, at any particular time, the sum of:
1. The payment received for all shares that have been issued; and
 2. Such amounts not included in (1), above, as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise, minus all reductions from such sums as have been affected in a manner permitted by this Title;
- S. “Subscriber” means one who subscribes for shares in a corporation, whether before or after incorporation;
- T. “Surplus” means the excess of the net assets of a corporation over its stated capital;
- U. “Tribal Court” means the Northwest Intertribal Court System (NICS), of which the Tribe is a member; and
- V. “Tribal Secretary” means the Secretary of the Council and such other assistant secretaries as the Council may, from time-to-time, appoint.

Chapter 11.02
Miscellaneous Provisions

Sections:

Section 11.02.01 Purposes

Section 11.02.01 Purposes

Corporations may be organized under this Title for any lawful purpose or purposes, except for the purposes of banking or insurance. These activities are, or will be, authorized, if at all, under separate titles of the Tribal Code.

Section 11.02.02 Existing Tribal Corporations

For each Tribally chartered corporation in existence as of the date this Title is adopted by the Council, and which is wholly or majority owned by the Tribe, the Council shall adopt amended articles conforming its provisions with those for a Class A corporation under this Title.

Section 11.02.03 Defense of Ultra Vires

No corporation created under this Title may assert as a defense and no act of such a corporation nor conveyance or transfer of real or personal property to or by such a corporation shall be invalid by reason of the fact that it was without capacity or power to do such act or to make or receive such conveyance or transfer. Provided, however, such lack of capacity or power may be asserted by the corporation:

- A. In a proceeding by a shareholder against the corporation to enjoin the doing of any act, or the transfer of real or personal property by or to the corporation. If the unauthorized act or transfer sought to be enjoined is being, or is to be, performed or made pursuant to a contract to which the corporation is a party, the Court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in doing so may allow to the corporation or to the other parties to the contract, as the case may be, compensation for the loss or damages sustained by either of them which may result from the action of the Court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the Court as a loss or damages sustained;
- B. In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through share holders in a representative suit, against the incumbent or former officers or directors of the corporation; and
- C. In a proceeding by the Tribal Secretary as provided in this Title, to dissolve the corporation, or in a proceeding by the Tribal Secretary to enjoin the corporation from the transaction of an authorized business.

Section 11.02.04 Corporate Name

The corporate name:

- A. Shall contain the corporation, company, incorporated, or limited, or shall contain an abbreviation of one (1) of such words;
- B. Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles; and
- C. Shall not be the same as, or deceptively similar to the name of any corporation, existing under this Title or any other corporation authorized to transact business on the Tribe's Reservation.

Section 11.02.05 Registered Office and Registered Agent

Each corporation shall have and continuously maintain on the Tribe's Reservation:

- A. A registered office, and;
- B. A registered agent.

Section 11.02.06 Service of Process on Corporations

The registered agent so appointed by a corporation upon whom any process, notice or demand required or permitted by law, to be served upon the corporation, may be served. Whenever a corporation shall fail to appoint or maintain a registered agent on this Reservation or whenever its registered agent cannot, with reasonable diligence, be found at the registered office, then the Tribal Secretary shall be an agent of such corporation upon whom any such process, notice, or demand shall be served.

Service on the Tribal Secretary of any such process, notice, or demand shall be made by delivering to and leaving with them, or with any clerk having charge of the corporation department or that office, duplicate copies of such process, notice or demand. In the event that any such process, notice or demand is served on the Tribal Secretary, they shall immediately cause one (1) of such copies thereof to be forwarded by registered mail, addressed to the corporation at its registered office. Any service so had on the Tribal Secretary shall be returnable in not less than thirty (30) days.

The Tribal Secretary shall keep a record of all processes, notices, and demands served upon them under this Section, and shall record therein the time of such service and their action with reference thereto. Nothing contained herein shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Section 11.02.07 Forms to be Furnished by the Tribal Secretary

All reports required by this Title to be filed in the office of the Tribal Secretary shall be made on forms which shall be prescribed and furnished by the Tribal Secretary. Forms for all other documents to be filed in the office of the Tribal Secretary shall be furnished by the Tribal Secretary on request therefore, but the use thereof, unless otherwise specifically prescribed in this Title, shall not be mandatory.

Section 11.02.08 Greater Voting Requirements

Whenever, with respect to any action to be taken by the shareholders of a Class B Corporation require the vote or concurrence of a greater proportion of the shares than required by this Title, with respect to such action, the provisions of the articles shall control.

Section 11.02.09 Loans to Employees and Directors

A corporation shall not lend money to or use its credit to assist its directors or employees without authorization in the particular case by its shareholders.

Section 11.02.10 No Contract void or Voidable

No contract or other transaction between a corporation and one (1) or more of its directors or any other corporation, firm, association or entity in which one (1) or more of its directors are directors or officers, or are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are a committee thereof which authorizes, approves, or ratifies such contract or transaction or because their votes are counted for such purpose, if:

- A. The fact of such relationship or interest is disclosed or known to the Board of Directors or a committee thereof which authorizes, approves, or ratifies, the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or
- B. The fact of such relationship or interest is disclosed or known to the shareholders entitled to vote

and they authorize, approve, or ratify such contract or transaction by vote or written consent; or

- C. The contract or transaction is fair and reasonable to the corporation. Common or interested directors may be counted in determination of the presence of a quorum at a meeting of the Board of Directors or a committee thereof which authorizes, ratifies, or approves such contract or transaction.

Section 11.02.11 Books and Records

Each corporation shall keep correct and complete books and records of each account and shall keep minutes of the proceedings of its shareholders and Board of Directors, and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of shares held by each. Any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

Any person who shall have been a holder of record of shares or of voting trust certificates therefore at least six (6) months immediately preceding his demand, or shall be the holder of record of, or the holder of record of voting trust certificates for, at least five percent (5%) of all the outstanding shares of the corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its relevant books and records of account, minutes and record of shareholders and to make transactions there from. Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder or holder of voting trust certificates, or their agent or attorney, to examine and make extracts from its books and records of accounts, minutes, and record of shareholders, for any proper purpose, shall be liable to such shareholder or holder of voting trust certificates in a penalty of ten percent (10%) of the value of the shares owned by such shareholders, or in respect of which such voting trust certificates are issued, in addition to any other damages or remedy afforded them by law.

It shall be a defense to any action for penalties under this section that the person suing therefore, has, within two (2) years sold or offered for sale any list of shareholders or of holders of voting trust certificates for shares of such corporation, or any other corporation or has aided or abetted any person in procuring any list of shareholders or of holders of voting trust certificates for any such purpose; or has improperly used any information secured through any prior examination of the books and records of accounts, or minutes or record of shareholders or of holders of voting trust certificates for shares of such corporation, or any other corporation; or was not acting in good faith or for a proper purpose in making their demand.

Nothing contained in this section shall impair the power of any court of competent jurisdiction, upon proof by a shareholder or holder of voting trust certificates, of proper purpose, irrespective of the period of time during which such shareholder or holder of voting trust certificates shall have been a shareholder of record or holder of voting trust certificates and irrespective of the number of shares held by him or represented by voting trust certificates held by him to compel the production for examination by such shareholder or holder of voting trust certificates of the books and accounts, minutes and record of shareholders of a corporation. Upon written request of any shareholder or holder of voting trust certificates for shares of a corporation, the corporations shall mail to such shareholders or holders of voting trust certificates, its most recent financial statement showing, in reasonable detail, its assets and liabilities and the result of its operations.

Section 11.02.12 Waiver of Notice

Whenever any notice is required to be given to any shareholder or director of a corporation under the provisions of this Title or under the provisions of the articles or bylaws of the corporation, a waiver thereof shall be in writing signed by the person or persons entitled to such notice.

Section 11.02.13 Actions by Members or Directors Without a Meeting

Any action required by this Title to be taken at a meeting of the shareholders of a corporation, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting, if consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof. Such consent shall have the same effect as a unanimous vote of shareholders, and may be stated as such in any articles or document filed with the Tribal Secretary under this Title.

Section 11.02.14 Notification to the Tribal Secretary

If on or before the last day of December, in a given calendar year, a corporation shall have failed to file its annual reports or to pay franchise taxes in accordance with the provisions of this Title or shall have given cause for dissolution as provided in this Title the Tribal Secretary shall file an action in the name of the Tribe against such corporation for its dissolution. If, after such action has been filed, the corporation shall file its annual report or pay its franchise tax, together with all penalties thereon, or shall appoint or maintain a registered agent as provided in this Title, or shall file with the Tribal Secretary the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

Section 11.02.15 Jurisdiction of Tribal Courts

The Tribal Court shall have jurisdiction over any corporation, its directors, officers or employees, organized under this Title, for enforcement of this Title, or for any matter having to do with the administration, operation or business of the corporation.

Section 11.02.16 Effect of Invalidity of Part of this Title

If the Tribal Court shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this Title, such judgment or decree shall not effect, impair, invalidate, or nullify the remainder of this Title, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this Title so adjudged to be invalid or unconstitutional.

Section 11.02.17 Construction and Severability

This Title is exempted from the rule of strict construction, and shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

If any section of this Title, or its application to any person or entity or circumstance, is held invalid, the remainder of the Title, or the application of the provision to other persons or entities or circumstances, shall not be affected and shall remain in full force and effect.

Section 11.02.18 Tribal Sovereign Immunity and Jurisdiction Preserved

Nothing in this Title shall be construed as a waiver of the sovereign immunity of the Tribe, the Tribal Council, or of any board, committee, or corporation acting under the authority of the Tribe or the Tribal Council. Nothing in this Title shall be construed as a grant of jurisdiction to the United States or to a State or local government.

Section 11.02.19 Amendments and Repeal

The Tribal Council shall have the authority to amend this Title, as it deems necessary, after its effective date without further approval by any federal agency. Once amendments to this Title are approved by the Tribal Council, it will be restated by incorporating amendments into the body of the Title in lieu of maintaining the original version and appending amendments thereto. All prior corporation titles, codes or ordinances adopted by the Tribal Council are hereby repealed in full.

Chapter 11.03
Class A Corporations - Privileges and Immunities

Sections:

Section 11.03.01 Class A Corporations

Section 11.05.02 Class A Corporations Qualified Under Special Provisions of Federal Law and Regulations

Section 11.03.03 Corporate Powers - Class A Corporations

Section 11.03.04 Powers Which May Not Be Conferred

Section 11.03.05 Powers Not Requiring Final Approval

Section 11.03.01 Class A Corporations

The Class A corporations established under this Title shall be considered to be independent governmental agencies and instrumentalities of the Tribe. Notwithstanding the fact that their work rules and conditions for their employees may differ from that of other Tribal employees, their employees shall be deemed to be carrying out responsibilities imposed upon them by the Council for economic advancement of the Tribe and its citizens, pursuant to the powers set out in the Constitution of the Tribe. Such corporations, their officers and employees, shall, therefore, be entitled to all of the privileges and immunities enjoyed by the Tribe, including but not limited to:

- A. Immunities from suit in Federal and State courts;
- B. Immunities to Federal and State taxation, or regulation; and
- C. Protection by the same federal statutes and treaties which protect the Tribe because of its status as a federally recognized Indian Tribe.

Any and all privileges and/or immunities of the Tribe may be modified or waived for Class A Corporations if done so expressly by the Council in the articles issued pursuant to this Title.

Notwithstanding the immunity from suit conveyed upon Class A Corporations under this section, the provisions of this Title and other laws may be enforced against any such corporation, parent or subsidiary, its directors or officers, by bringing an action in law or equity in the Tribal Court of the Tribe, when brought by the Tribe itself.

Section 11.03.02 Class A Corporations Qualified Under Special Provisions of Federal Law and Regulations

Notwithstanding any other provisions of this Title, the Council may establish or reorganize established Class A Corporations or their subsidiaries, in order to qualify each such entity for:

- A. Certification under 13 CFR Part 124 as an "8(A)" small/disadvantaged business; and/or
- B. Certification or qualification under other relevant provisions of federal laws and regulations relating to minority, Indian owned small, disadvantaged or special category businesses.

Section 11.03.03 Corporate Powers - Class A Corporations

For a Class A corporation, certain powers may not be conferred in the articles of incorporation, but must remain with the Council. For powers that can be conferred, there are two (2) types: those not requiring final approval and those requiring final approval by the Council before being exercised.

Section 11.03.04 Powers Which May Not Be Conferred

The following powers will always remain within the purview of the Council and can never be conferred on a Class A corporation in the articles:

- A. To waive provisions of this Title; and
- B. To amend the articles of incorporation;

Sections 11.03.05 Powers Not Requiring Final Approval

The powers which may be conferred on a Class A Corporation by the Council in the articles that do not require final approval include the following:

- A. To secure lines of credit, borrow money and make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees, and other obligations of the corporation for monies borrowed, or in payment for personal property acquired or for any of the purposes of the corporation and to secure payment of any obligations by secured interest, chattel mortgage, pledge, indenture, agreement or other instrument of trust, or by other lien upon, assignment of or agreement in regard to all or any part of the personal property, rights or privileges of the corporation, provided, the credit or guarantee of the Tribe is not required in any such transaction;
- B. To mediate, arbitrate, compromise, negotiate, or settle any dispute related to the corporation's authorized activities to which it is a party;
- C. To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with money, securities, and personal property, rights and services of any kind and/or description, or any interest therein;
- D. To furnish management, administrative and other business advice, support, training and technical assistance to Tribal citizens, employees, and/or the corporation employees involved in business ventures and/or programs owned or operated or by the corporation, with or without fee;
- E. To conduct educational activities designed to provide instruction or training of Tribal citizens, Tribal employees, and/or employees of the corporation in technical language, knowledge, and/or skills related to the furtherance of economic development expertise within the Tribal community, for Tribal employees, and/or employees of the corporation, with or without fee;
- F. To engage in the activities of owning and operating business ventures, providing job training and/or services or any kind whatsoever as long as they support and promote the purpose of the corporation;
- G. To sue or be sued in the Tribal Court, the Federal Courts or other courts of competent jurisdiction within the United States (Note: if this power is not specifically granted in the articles, Section 5 (V). of Article I (i) will apply to the corporation);
- H. To conduct its affairs, carry on its operations, and exercise the powers granted under the articles or incorporation in any state, territory, district, or possession of the United States, or in any foreign country;
- I. To organize its-self by electing a Chairman, Vice Chairman, Secretary, and Treasurer, who shall be referred to as officers of the board. The Secretary and Treasurer do not have to be members of the board;
- J. To authorize the CEO to hire subordinate officers and employees as may be required to implement the purposes of the corporation;
- K. To take all action which shall be necessary and proper for carrying into execution corporate purposes and the powers vested in the corporation by the articles in any and all activities of the corporation as permitted by the purposes and powers therein stated, which shall be in compliance with all laws, Titles, rules, and regulations duly adopted by the Council or the United States Government, and if the corporation is subject to the jurisdiction of a given state, its applicable laws;
- L. To retain earnings sufficient to meet future growth projections provided such projections have been approved by the Council. Any earnings in excess of such retention requirements will be paid

to the Tribe as dividends on a monthly, quarterly or yearly basis as determined by the Council;

- M. To enter into, make, perform and carry out or cancel and rescind contracts for any lawful purpose pertaining to its business or which is necessary or incidental to the accomplishment of its purpose as outlined in this Title;
- N. To invest and reinvest its funds in such mortgages, bonds, notes, debentures, shares of preferred and common stocks, and any other securities of any kind whatsoever and personal property, tangible or intangible, as the Board of Directors shall deem advisable and as may be permitted under applicable law or Title;
- O. To exist in perpetuity unless a different duration is stated in the articles;
- P. To organize and establish wholly-owned or majority-owned subsidiaries of the corporation, including limited liability corporations; and
- Q. Other such powers as the Council may from time-to-time confer;

Chapter 11.04
Powers Requiring Final Approval

Sections:

Section 11.04.01 Powers Requiring Final Approval

Section 11.06.01 Powers Requiring Final Approval

The powers which may be conferred on a Class A Corporation by the Council in the articles that do require final approval, before being exercised, include the power:

- A. To appoint the Chief Executive Officer (CEO) or equivalent position;
- B. To name or rename the corporation;
- C. To amend the bylaws;
- D. To secure lines of credit, borrow money and make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees, and other obligations of the corporation for monies borrowed, or in payment for *personal property* acquired or for any of the purposes of the corporation and to secure payment of any obligations by secured interest, chattel mortgage, pledge, indenture, agreement or other instrument of trust, or by other lien upon, assignment of or agreement in regard to all or any part of the personal property, rights or privileges of the corporation, if the credit or guarantee of the Tribe is required in any such transaction;
- E. To borrow money and make, accept, endorse, execute and issue bonds, debentures, promissory notes, guarantees, and other obligations of the corporation for monies borrowed, or in payment for real property acquired or for any of the purposes of the corporation and to secure payment of any obligations by secured interest, mortgage, pledge, indenture, agreement or other instrument of trust, or by other lien upon, assignment of or agreement in regard to all or any part of the real property, rights or privileges of the corporation;
- F. To purchase, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, develop, use, and otherwise deal in real property;
- G. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its non-trust real property and assets, PROVIDED, that title to all trust or restricted real property shall be and remain in its trust or restricted status;
- H. To acquire a minority or majority ownership in the stock of another corporation; and
- I. To acquire the assets of another corporation.

Chapter 11.05
Corporate Powers - Class B Corporations

Sections:

Section 11.05.01 Class B Corporations

Section 11.05.01 Class B Corporations

For Class B corporations, the following powers shall be exercisable, whether or not they are set out in the articles:

- A. To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles;
- B. To sue and be sued, complain and defend, in its corporate name;
- C. To have a corporate seal which may be altered at pleasure, and use the same by causing it, or a facsimile thereof, to be impressed or affixed in any other manner reproduced;
- D. To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;
- E. To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;
- F. To lend money and otherwise use its credit to assist its employees;
- G. To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, obligations of corporations (whether or not incorporated under this Title), associations, partnerships, or individuals, or direct or indirect obligation of the United States, or of any other government, state, territory, governmental district, or municipality or of any instrumentality thereof, or of any Indian Tribe;
- H. To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchise and income;
- I. To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;
- J. To conduct its business, carry on its operations, and have offices and exercise the powers granted by this Title within or outside the Reservation;
- K. To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;
- L. To make and alter bylaws, not inconsistent with its articles or with this Title or any other law, Title, or regulations of the Tribe for the administration and regulation of the affairs of the corporation;
- M. To make donations for the public welfare or for charitable, scientific, or educational purposes;
- N. To transact any lawful business which the Board of Directors approves;
- O. To pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus

plans, stock option plans, and other incentive plans for any or all of its directors, officers, and employees;

- P. To be a promoter, partner, member, associate, or manager of any partnership, joint venture, limited liability company/partnership, trust or other enterprise; and
- Q. To have and exercise all powers necessary or convenient to affect its purpose.

Chapter 11.06
Articles of Incorporation

Sections:

Section 11.06.01 Incorporators

Section 11.06.02 Articles

Section 11.06.03 Filing of Articles

Section 11.06.04 Effect of Issuance of Certificate of Incorporation
Section 11.06.05 Organization Meeting of Directors

Section 11.06.06 Right to Amend or Restate Articles

Section 11.06.01 Incorporators

The following parties may act as incorporators under this Title, by signing, certifying, and delivering in duplicate to the Tribal Secretary, articles of such corporation:

- A. The Tribal government, both as the sole shareholder or with other parties;
- B. Tribal and Non-Tribal members;
- C. Class B Corporations;
- D. Class A Corporations, when authorized by the Council.

Section 11.06.02 Articles

Subject to the provisions of Article I (1), Section 10 (X) for Class A Corporations and Section 11 (XI) for Class B Corporations of this Title, the articles shall, at a minimum, set forth:

- A. The name of the corporation;
- B. The period of duration, which may be perpetual;
- C. The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this Title;
- D. The aggregate number of shares which the corporation shall have the authority to issue;
- E. Any provision, inconsistent with law, which the incorporators elect to set forth in the articles for the regulation of the internal affairs of the corporation, including any provision for restricting the transfer of shares and any provisions which, under this Title, is required or permitted to be set forth in the bylaws;
- F. The address of its initial registered office, and the name of its initial registered agent at such address;
- G. The number of directors constituting the initial Board of Directors, and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors are elected and qualify; and
- H. The name and address of each incorporator. It shall not be necessary to set forth in the articles any of the corporate powers enumerated in this Title.

Section 11.06.03 Filing of Articles

Duplicate originals of the articles shall be delivered to the Tribal Secretary. If the Tribal Secretary finds that the

articles conform to law, they shall, when all fees and charges have been paid as under this Title prescribed:

- A. Endorse on each of such duplicate originals the word Filed and the month, day, and year of filing thereof;
- B. File one (1) of each such duplicate original in their office; and
- C. Issue a certificate of incorporation to which they shall affix the other duplicate original.

The certificate of incorporation, together with the duplicate original of the articles affixed thereto by the Tribal Secretary, shall be returned to the incorporators of their representative.

Section 11.06.04 Effect of Issuance of Certificate of Incorporation

Upon the issuance of certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Title, except as against the Tribal Secretary in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

Section 11.06.05 Organization Meeting of Directors

After the issuance of the certificate of incorporation, an organization meeting of the Board of Directors named in the articles shall be held at the call of a majority of the directors named in the articles, for the purpose of adopting bylaws, electing officers, and the transacting of such other business as may come before the meeting. The directors calling the meeting shall give at least three (3) days' notice thereof, by mail to each director so named, stating the time and place of the meeting.

Section 11.06.06 Right to Amend or Restate Articles

A Class A Corporation's articles may only be amended or restated by the Tribal Council. A Class B Corporation's articles may be amended or restated from time to time as provided herein.

Chapter 11.07
Procedure to Amend or Restate Articles - Class B Corporations

Sections:

Section 11.07.01 Procedure to Amend Articles - Class B corporations

Section 11.07.02 Articles of Amendment - Class B Corporations

Section 11.07.03 Filing of Articles of Amendment - Class B Corporations

Section 11.07.04 Effect of Certificate of Amendment - Class B Corporations

Section 11.07.05 Procedure to Restate Articles – Class B Corporation

Section 11.07.01 Procedure to Amend Articles - Class B corporations

Amendments to the articles shall be made in the following manner:

- A. The Board of Directors shall adopt a resolution setting forth the proposed amendment and, directing that it is to be submitted to a vote, at a meeting of shareholders, which may be either an annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the Board of Directors and the provisions for adoption by the shareholders shall not apply. The resolution may incorporate the proposed amendment in restated articles which contain a statement that, except for the designated amendment, the restated articles correctly set forth without change the corresponding provisions of the articles as theretofore amended, and that the restated articles together with the designated amendment supersede the original articles and all amendments thereto;
- B. Written or printed notice setting forth the proposed amendment or a summary of the changes to be affected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this Title for the giving of notice of meetings of shareholders. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting; and
- C. At such meeting, a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. Any number of amendments may be submitted to the shareholders and voted upon by them at one meeting.

Section 11.07.02 Articles of Amendment - Class B Corporations

The articles of amendment shall be executed in duplicate by its President or Vice President, and by its Secretary or an assistant secretary and verified by one of the officers signing such articles and shall set forth:

- A. The name of the corporation;
- B. The amendments so adopted;
- C. The date of the adoption of the amendment by the shareholders; or by the Board of Directors where no shares have been issued;
- D. The number of shares outstanding and the number of shares entitled to vote thereon;
- E. The number of shares voted for and against such amendment respectively, or if no shares have been issued, a statement to that effect;
- F. If such amendment provides for an exchange, cancellation of issued shares, and if the manner in

which the name shall be affected is not set forth in the amendment, then a statement of the manner in which the name shall be affected; and

- G. If such amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is affected and a statement, expressed in dollars, of the amount of stated capital as changed by such amendment.

Section 11.07.03 Filing of Articles of Amendment - Class B Corporations

Duplicate originals of the articles of amendment shall be delivered to the Tribal Secretary. If the Tribal Secretary finds that the articles of amendment conform to this Title, they shall, when all fees and franchise taxes have been paid:

- A. Endorse on each of such duplicate originals the word Filed, and the month, day, and year of the filing thereof;
- B. File one of such duplicate originals in their office;
- C. Issue a certificate of amendment to which they shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the Tribal Secretary, shall be returned to the corporation or its representative.

Section 11.07.04 Effect of Certificate of Amendment - Class B Corporations

Upon the issuance of the certificate of amendment by the Tribal Secretary, the amendment shall become effective and the articles shall be deemed accordingly. No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or existing rights of persons other than shareholders; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

Section 11.07.05 Procedure to Restate Articles – Class B Corporation

A Class B Corporation may, at any time, restate its articles as theretofore amended, by a resolution adopted by its Board of Directors. Upon the adoption of such a resolution, restated articles shall be executed in duplicate by the corporation; by its President, Vice President, and by its Secretary, and verified by one of the officers signing such articles; and shall set forth all of the operative provisions of the articles as theretofore amended, together with a statement that the restated articles correctly set forth, without change, the corresponding provisions of the articles as theretofore amended, and that the restated articles supersede the original articles and all amendments thereto.

Duplicate originals of the restated articles shall be delivered to the Tribal Secretary. If the Tribal Secretary finds that such restated articles conform to law, they shall, when all fees and franchise taxes have been paid, as in this Title prescribed:

- A. Endorse on each of such duplicate originals the word Filed and the month, day, and year of the filing thereof;
- B. File one of such duplicate originals in their office;
- C. Issue a restated certificate of incorporation, to which they shall affix the other duplicate original.

The restated certificate or incorporation, together with the duplicate original together with the duplicate original of the restated articles affixed thereto by the Tribal Secretary, shall be returned to the corporation or its representative. Upon the issuance of the restated certificate of incorporation by the Tribal Secretary, the restated articles shall become effective and shall supersede the original articles and all amendments thereto.

Chapter 11.08 Corporate Stock

Sections:

Section 11.08.01 Authorized Shares

Section 11.08.02 Consideration for Shares

Section 11.08.03 Payments of Shares

Section 11.08.04 Determination of Amount of Stated Capital

Section 11.08.05 Certificate Representing Shares

Section 11.08.01 Authorized Shares

Each corporation shall have power to create and issue the number of shares stated in its articles. Such shares shall be of only one class and shall be shares without par value.

Section 11.08.02 Consideration for Shares

Shares may be issued for such consideration expressed in dollars as shall be fixed from time to time by the Board of Directors.

Section 11.08.03 Payments of Shares

The consideration for the issuance of shares may be paid, in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation; such shares shall be deemed to be fully paid and non assessable. Neither promissory notes nor future services shall constitute payment or part payment for the issuance of shares of a corporation. In the absence of fraud in the transaction, the judgment of the Board of Directors of the shareholders, as the case may be, as to the value of the consideration received for share will be conclusive.

Section 11.08.04 Determination of Amount of Stated Capital

The consideration received for shares shall constitute stated capital.

Section 11.08.05 Certificate Representing Shares

The shares of a corporation shall be represented by certificates signed by the President or CEO or Vice President and the Secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. Each certificate representing shares shall state upon the face thereof:

- A. That the corporation is organized under this Title;
- B. The name of the person to whom issued;
- C. The number of shares which such certificate represents; and
- D. That the shares are issued without par value.

No certificate shall be issued for any share until such share is fully paid.

Chapter 11.09
Shareholders - Class B Corporations

Sections:

Section 11.09.01 Meetings of Shareholders

Section 11.09.02 Notice of Shareholder's Meetings

Section 11.09.03 Closing of Transfer Books and Fixing Record Date

Section 11.09.04 Voting Record

Section 11.09.06 Voting of Shares

Section 11.09.01 Meetings of Shareholders

Meetings of shareholders may be held at such place as may be stated in, or fixed in accordance with the bylaws. If no other place is stated in or so fixed, meetings shall be held at the registered office of the corporation. An annual meeting of shareholders shall be held at such time as may be stated in or fixed in accordance with the bylaws. If the annual meeting is not held within any thirteen (13) month period, the Tribal Court may, on the application of any shareholder, summarily order a meeting to be held. Special meetings of the shareholders may be called by the Board of Directors, the holders of not less than one tenth (1/10) of all the shares entitled to vote at the meeting, or such other persons as may be authorized in the articles or the bylaws.

Section 11.09.02 Notice of Shareholder's Meetings

Written notice stating the place, day and hour of the meeting, and, in case of a special meeting, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail; or at the direction of the President, Secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the shareholder at their address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

Section 11.09.03 Closing of Transfer Books and Fixing Record Date

For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the Board of Directors of a corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, ten (10) days.

Section 11.09.04 Voting Record

The officer or agent having charge of the stock transfer books for shares of a corporation shall make a complete record of the shareholders entitled to vote at such meetings or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such record shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof. Failure to comply with the requirements of this Section shall not affect the validity of any action taken at such meeting. An officer or agent having charge of the stock transfer books who shall fail to prepare the record of shareholders, or produce and keep it open for inspection at the meeting, as provided in this Section, shall be liable to any shareholder suffering damage on account of such failure, to the extent of such damage.

Section 11.09.05 Quorum of Shareholders

Unless otherwise provided in the articles, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one third (1/3) of the shares entitled to vote at the meeting. If a quorum is present, affirmative vote of a majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number is required by this Title or the articles or the bylaws.

Section 11.09.06 Voting of Shares

Each outstanding share shall be entitled to one vote on each matter submitted to a vote at the meeting of shareholders, except as may be otherwise provided in the articles. If the articles provided for more or less than one

vote for any share, on any matter, every reference in this Title to a majority or other proportion of votes entitled to be cast. A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

Chapter 11.10 Board of Directors

Sections:

Section 11.10.01 Board of Directors

Section 11.10.02 Number and Election of Directors

Section 11.10.03 Officers of the Board

Section 11.10.04 Vacancies

Section 11.10.05 Removal of Directors

Section 11.10.06 Quorum of Directors

Section 11.10.07 Executive and Other Committees

Section 11.10.08 Place and Notice of Director's Meetings**11.27.09 Action by Directors Without a Meeting**

Section 11.10.10 Liability of Directors in Certain Cases

Section 11.10.11 Liabilities for Class A and Class B Corporations

Section 11.10.12 Penalties Imposed Upon Directors

Section 11.10.01 Board of Directors

For Class A Corporations, its business and affairs shall be managed by a Board of Directors appointed by the Council. The Council shall have the authority to fix the terms and compensation of Directors in the articles.

For Class B Corporations, its business and affairs shall be managed by a Board of Directors which shall have the authority to fix the compensation of Directors unless otherwise provided in the articles.

Section 11.10.02 Number and Election of Directors

For Class A Corporations, the Council shall, by resolution, appoint or remove the initial and subsequent Directors of all corporations created pursuant to this Title. The articles for each Class A Corporation shall contain the stipulation that each Director serves at the pleasure of the Council and the terms of such service.

For both Class A and Class B Corporations, the Board of Directors of a corporation shall consist of one or more members. The number of directors of a corporation shall be fixed by or in the manner provided in, the articles or the bylaws, except as to the number constituting the initial Board of Directors, which number shall be fixed by the articles. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in the articles or the bylaws, but no decrease shall have the effect of shortening the term of any incumbent director.

The names and addresses of the members of the Board of Directors shall be stated in the articles. For Class B Corporations, such persons shall hold office until the first annual meeting of shareholders and until the first annual meeting of shareholders, and until their successors shall have been elected and qualified.

For Class B Corporations, at the first meeting of shareholders and at each annual meeting thereafter, the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by the Title. Each director shall hold office for the term for which he is elected and qualified.

Section 11.10.03 Officers of the Board

The officers of the Board, who shall be elected by the Board, shall be the Chairman, Vice-Chairman, Secretary and Treasurer. These officers are separate from the officers of the corporation (see Article VI) who are responsible for the day-to-day operations of the corporation. A Board member may also be an employee of the corporation and hold both a position as a member and officer of the Board and as an officer of the corporation.

Other officers and assistant officers and agents of the Board, as may be deemed necessary, may be elected or appointed by the Board of Directors or chosen in such other manner as may be prescribed by the bylaws. Any two (2) or more offices of the Board may be held by the same person, except the offices of Chairman, Vice Chairman or

Secretary. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the Board of Directors not inconsistent with the bylaws.

Unless an officer of the Board resigns, dies, or is removed prior thereto, they shall hold office until a successor has been appointed and qualified. Any officer may resign at any time by delivering a written resignation to the President, Vice-President or Secretary of the Board. Any Board officer may be removed at any time, with or without cause, by a majority of vote of the Directors at a duly held meeting of the Board of Directors at which such removal shall be considered. If the officer is both- an officer of the corporation and a member of the Board of Directors, such removal from a Board office shall not affect the person's standing as a general member of the Board and as a corporate officer. The Board of Directors may fill vacancies in Board offices for the remaining portion of the term.

Section 11.10.04 Vacancies

For Class A Corporations, any vacancy occurring in the Board of Directors shall be filled by the Tribal Council.

For Class B Corporations, any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected or appointed for the unexpired term of their predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by the Board of Directors for a term of office continuing only until the next election of directors by the shareholders.

Section 11.10.05 Removal of Directors

For Class A Corporations, the Tribal Council shall have the sole power to remove Directors, with or without cause.

For Class B Corporations, at a meeting of shareholders called expressly for that purpose, Directors may be removed in the manner provided in this Section. Any director or the entire Board of Directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of the directors.

Section 11.10.06 Quorum of Directors

A majority of the number of directors fixed by, or in the manner provided in, the bylaws, or in the absence of a bylaw fixing or providing for the number of Directors, of the number stated in the articles shall constitute a quorum for the transaction of business, unless a greater number is required by the articles or the bylaws. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by the articles or bylaws.

Section 11.10.07 Executive and Other Committees

If the articles or the bylaws so provide, the Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and/or other committees, each of which, to the extent provided in such resolution or in the articles or the bylaws of the corporation, shall have and may exercise all authority of the Board of Directors, but no such committee shall have the authority of the Board of Directors in reference to:

- A. Recommending amendments to the articles;
- B. Adopting a plan for merger or consolidation; recommending to the shareholders the sale, lease, exchange, or other disposition of all or substantially all the property and assets of the corporation, otherwise than in the usual and regular course of its business;
- C. Recommending to the shareholders a voluntary dissolution of the corporation, or a revocation thereof; or
- D. Amending the bylaws of the corporation.

The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any members thereof, of any responsibility imposed by law.

Section 11.10.08 Place and Notice of Director's Meetings

Meetings of the Board of Directors, regular or special, may be held within or outside the Reservation. Regular meetings of the Board of Directors may be held with or without notice as prescribed by the bylaws. Special meetings of the Board of Directors shall be held upon such notices as is prescribed in the bylaws. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted, nor the purpose of, any regular meeting of the Board of Directors need be specified in the notice or waiver of such notice, of such meeting, unless otherwise provided in the articles or the bylaws.

Section 11.10.09 Action by Directors Without a Meeting

Unless otherwise provided by the articles or bylaws, any action required by this Title to be taken at a meeting of the directors of a corporation, or any action which may be taken at a meeting of the Directors or of a committee, may be taken without a meeting, if a consent, in writing, setting forth the action so taken, shall be signed by all the Directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

Section 11.10.10 Liability of Directors in Certain Cases

For Class B Corporations, in addition to any other liabilities imposed by law upon directors of a corporation:

- A. Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this Title, or contrary to any restrictions contained in the articles, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividends or distribution, which could have been paid or distributed without a violation of this act or the restrictions in the articles;
- B. Directors of a corporation who vote for or assent to the purchase of its own shares contrary to the provisions of this Title shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefore without a violation of the provisions of this Title; and
- C. Directors of a corporation who vote for or assent to any distribution of assets or a corporation to its shareholders during the liquidation of the corporation, without the payment and discharge of, or making adequate provisions for all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations, and liabilities of the corporation are not thereafter paid and discharged.

Section 11.10.11 Liabilities for Class A and Class B Corporations

In addition to any other liabilities imposed by law upon Directors of a corporation:

- A. A Director of a corporation who is present at a meeting of its Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless their dissent shall be entered in the minutes of the meeting, or unless they shall file their written dissent to such action with the Secretary of the meeting before adjournment thereof or shall forward after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action;
- B. A Director shall not be liable under A., B., or C. of this Section if they relied and acted in good faith upon financial statements of the corporation represented to them to be correct by: the President of, or the officer of such corporation having charge of its books of account, or stated in a written report by an independent public or certified public accountant or firm of such accountants, which fail to reflect the financial condition of such corporation, nor shall they be so liable if, in good faith in determining the amount available for any such dividend or distribution, they considered the assets to be of their book value;

- C. Any Director against whom a claim shall be asserted under or pursuant to this Section for the payment of a dividend or other distribution of assets of a corporation who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this Title in proportion to the amounts received by them. Any director against whom a claim shall be asserted under or pursuant to this Section shall be entitled to contribution from the other Directors who voted for or assented to the action upon which the claim is asserted.

Section 11.10.12 Penalties Imposed Upon Directors

Each director of a corporation who fails or refuses, within the time prescribed by this Title, to answer truthfully and fully interrogatories propounded to them by the Tribal Secretary in accordance with the provisions of this Title, or who signs any articles, statements, report, application, or other document filed with the Tribal Secretary which is known to such director to be false in any material aspect, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any amount not exceeding five hundred dollars (\$500.00).

Chapter 11.11 Corporate Officers

Sections:

Section 11.11.01 Officers

Section 11.11.02 Removal of Officers

Section 11.11.03 Penalties Imposed Upon Corporate Officers

Section 11.11.04 Service in Office

Section 11.11.01 Officers

A. Class A Corporation Officers:

The officers of a corporation are responsible for the day-to-day operations of the business. They shall consist of a CEO, appointed by the Board of Directors and approved by the Tribal Council, a CFO, and one or more Vice Presidents as may be prescribed by the bylaws. The CEO shall have the power to hire all subordinate officers and employees, subject to the approval and oversight of the Board of Directors as may be prescribed in the bylaws. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the Board of Directors not inconsistent with the bylaws;

B. Class B Corporation Officers:

For a Class B Corporation, the officers of a corporation are responsible for the day-to-day operations of the business. They shall consist of a President, and one or more Vice Presidents as may be prescribed by the bylaws. The President shall have the power to hire all subordinate officers and employees, subject to the approval and oversight of the Board of Directors as may be prescribed in the bylaws. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the Board of Directors not inconsistent with the bylaws.

Section 11.11.02 Removal of Officers

A. Class A Corporations:

Any officer or agent, other than the CEO, may be removed by the Board of Directors whenever, in its judgment, the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not, of itself, create contract rights. Only the Council may remove the CEO, with or without cause, subject to the conditions of an employment agreement, if any, agreement had been previously consented to by the Council;

B. Class B Corporations:

Any officer or agent may be removed by the Board of Directors whenever, in its judgment, the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not, of itself, create contract rights.

Section 11.11.03 Penalties Imposed Upon Corporate Officers

Each officer of a corporation who fails or refuses, within the time prescribed by this Title, to answer truthfully and fully interrogatories propounded to them by the Tribal Secretary in accordance with the provisions of this Title, or who signs any articles, statements, report, application, or other document filed with the Tribal Secretary which is

known to such officer or director to be false in any material aspect, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any amount not exceeding five hundred dollars (\$500.00).

Section 11.11.04 Service in Office

Unless an officer of the corporation resigns, dies, or is removed prior thereto, they shall hold office until a successor has been appointed and qualified. Any officer may resign at any time by delivering a written resignation to the CEO, Chairman or Secretary of the corporation. Any corporate officer may be removed at any time, with or without cause, by a majority of vote of the Directors at a duly held meeting of the Board of Directors at which such removal shall be considered. If the officer is both an officer of the corporation and a member of the Board of Directors, such removal from a corporate office shall not affect the member's standing as a general member of the Board. The Board of Directors may fill vacancies corporate offices for the remaining portion of the term.

Chapter 11.12 Stated Capital, Surplus and Reserves

Sections:

Section 11.12.01 Determination of Amount of Stated Capital

Section 11.12.02 Dividends

Section 11.12.03 Distribution from Capital Surplus - Class B Corporations

Section 11.12.04 Reduction of Stated Capital in Certain Cases

Section 11.12.05 Special Provisions Relating to Surplus and Reserves

Section 11.2.01 Determination of Amount of Stated Capital

The consideration received for shares shall constitute stated capital.

Section 11.12.02 Dividends

The Board of Directors of a corporation may from time to time, declare; and the corporation may pay dividends in cash, property, or its own shares, except when the corporation is insolvent or when the payment thereof would render the corporation insolvent, or when the payment thereof would be contrary to any restriction contained in the articles.

Section 11.12.03 Distribution from Capital Surplus - Class B Corporations

The Board of Directors of a corporation may from time to time distribute to its shareholders out of capital surplus of the corporation, a portion of its assets, in cash or property, subject to the following provisions:

- A. No such distribution shall be made at the time when the corporation is insolvent or when such distribution would render the corporation insolvent;
- B. No such distribution shall be made unless the articles so provide or such distribution is authorized by the affirmative vote of the holders of a majority of the outstanding shares of each class whether or not entitled to vote thereon by the provisions of the articles of the corporation;
- C. No such distribution shall be made to the holders of any class unless all cumulative dividends accrued on all preferred or special classes or shares entitled to preferential dividends shall have been fully paid;
- D. No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of involuntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation; and
- E. Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share is disclosed to the shareholders receiving the same, concurrently with the distribution thereof.

The Board of Directors of a corporation may also, from time to time, distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash, out of the capital surplus of the corporation; if at the time the corporation has no earned surplus and is not insolvent and would not thereby be rendered insolvent. Each such distribution, when made, shall be identified as a payment of cumulative dividends out of capital surplus.

Section 11.12.04 Reduction of Stated Capital in Certain Cases

A reduction of the stated capital of a corporation, where such reduction is not accompanied by any action requiring amendment of the articles, and is not accompanied by a cancellation of shares, may be made in the following manner:

- A. The Board of Directors shall adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of such reduction be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting; all such reductions for Class A Corporations shall be approved by the Council;
- B. For Class B Corporations, written notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation in the amount and manner proposed by the Board of Directors, shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this Title for the giving of notice of meetings of shareholders; and
- C. For Class B Corporations, at such meeting a vote of the shareholders entitled to vote thereon shall be taken on the question of approving the proposed reduction of stated capital, which shall be required for its adoption, the affirmative vote of the holders of a majority of the shares entitled to vote thereon.

Where a reduction of the stated capital of a corporation has been approved as provided in this Section, a statement shall be executed in duplicate by the corporation, by its President or CEO, Vice President, and by its Secretary or assistant secretary, and certified by one of its officers signing such statement and shall set forth:

- A. The name of the corporation;
- B. A copy of the resolution of the shareholders approving such reduction and the date of its adoption, which in the case of a Class A Corporation will be a resolution of the Tribal Council;
- C. For Class B Corporations, the number of shares outstanding and the number of shares entitled to vote thereon;
- D. For Class B Corporations, the number of shares voted for and against such reduction, respectively; and
- E. A statement of the manner in which such reduction is effected, and a statement, expressed in dollars, of the amount of stated capital of the corporation after giving effect to such reduction. Duplicate originals of such statement shall be delivered to the Tribal Secretary.

If the Tribal Secretary finds that such statement conforms to law, they shall, when all fees and franchise taxes have been paid, as in this Title prescribed:

- A. Endorse on each of such duplicate originals the word "Filed" and the month, day and year of the filing thereof;
- B. File one (1) of such duplicate originals in their office;
- C. Return the other duplicate original to the corporation or its representative.

Upon the filing of such statement, the stated capital of the corporation shall be reduced as therein set forth: No reduction of the stated capital shall be made under the provisions of this Section which would reduce the amount of the aggregate stated capital of the corporation to an amount equal to or less than the aggregate preferential amounts payable upon all issued shares having a preferential right in the assets of the corporation in the event of involuntary liquidation.

Section 11.12.05 Special Provisions Relating to Surplus and Reserves

The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation shall be capital surplus. The capital surplus of a corporation may be increased from time to time by resolution of the Board of Directors directing that all or a part of the earned surplus of the corporation be transferred to capital surplus.

A corporation may, by resolution of its Board of Directors, apply any part or all of its capital surplus to the reduction or elimination of any deficit arising from losses, however incurred, but only after first eliminating the earned surplus if any, of the corporation by applying such losses against earned surplus and only to the extent that such losses exceed the earned surplus, if any. Each such application of capital surplus shall, to the extent thereof, effect a reduction of capital surplus.

A corporation may, by resolution of its Board of Directors, and in the case of a Class A Corporation, with the approval of the Council of the Board resolution, create a reserve out of its earned surplus for any proper purposes, and may abolish any such reserve in the same manner. Earned surplus of the corporation to the extent so reserved shall not be available for the payment of dividends or other distributions by the corporation except as expressly permitted by this Title.

Chapter 11.13 Annual Report

Sections:

Section 11.13.01 Annual Report of Class A Corporations

Section 11.13.02 Annual Report of Class B Corporations

Section 11.13.03 Filing of Annual Report of Class B Corporation

Section 11.13.01 Annual Report of Class A Corporations

Each Class A corporation shall provide two (2) reports each year to the Council:

- A. The first report, titled "Performance Report," to be presented within thirty (30) days after the end of the fiscal year, will cover actual versus projected performance for the most recent corporate fiscal year for the following:
 - 1. Goals and objectives;
 - 2. Income statement, balance sheet, statement of cash flows; and
 - 3. Staffing.

- B. The second report, titled "Projected Work Plan," to be presented at least thirty (30) days before the beginning of the corporation's fiscal year, will cover projected performance for the upcoming corporate fiscal year. It will address:
 - 1. Goals and objectives;
 - 2. Revenues, expenses, retained earnings, and dividend payments to the Tribe; and
 - 3. Staffing.

The Council shall approve or disapprove the Projected Work Plan by resolution. If disapproved, it will be sent back to the corporation's Board and management group for revision and re-presentation to the Council. If an acceptable Projected Work Plan is not presented to the Council, it may direct adoption of a Projected Work Plan meeting its requirements.

The articles for each Class A corporation shall contain the stipulations on reporting set out in this section of the Title.

11.13.02 Annual Report of Class B Corporations

Each Class B corporation shall prepare, within the time prescribed by this Title, an annual report setting forth:

- A. The name of the corporation;
- B. The address of its registered office and the name of its registered agent;
- C. A brief statement of the character of the business which the corporation is actually engaged;
- D. The names and respective addresses of the directors and officers of the corporation;
- E. A statement of the aggregate number of shares which the corporation has authority to issue;

- F. A statement of the aggregate number of issued shares;
- G. A statement, expressed in dollars, of the amount of stated capital of the corporation, as defined in this Title;
- H. A statement, expressed in dollars, of the value of all the property owned by the corporation, wherever located, and the value of the property of the corporation located within this Reservation, and a statement, expressed in dollars, of the gross amount of business transacted by the corporation for the twelve (12) months ended on the thirty first (31st) day of December preceding the date herein provided for the filing of such report and the gross amount thereof transacted by the corporation at or from places of business on this Reservation.

If, on the thirty first (31st) day of December preceding the time herein provided for the filing of such report, the corporation had not been in existence for a period of twelve (12) months, or in the case of a foreign corporation having not been authorized to transact business on this Reservation, as the case may be, on such thirty first (31st) day of December, then no report shall be due.

If all the property of the corporation is located in this Reservation and all of its business is transacted at or from places of business on this Reservation, or if the corporation elects to pay the annual franchise tax on the basis of its entire stated capital, then the information required by this subparagraph need not be set forth in such report; and such additional information as may be necessary or appropriate in order to enable the Tribal Secretary to determine and assess the proper amount of franchise taxes payable by such corporation;

- I. Such annual report shall be made on forms prescribed and furnished by the Tribal Secretary and the information therein contained shall be given as of the date of the execution of the report, except as to the information required by subparagraphs G. and H., which shall be given as of the close of business on the thirty first (31st) day of December next preceding the date herein provided for the filing of such report.

It shall be executed by the corporation by its President, a Vice President, Secretary, an assistant secretary, or Treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and certified by such receiver or trustee.

Section 11.13.03 Filing of Annual Report of Class B Corporation

Such annual report of a corporation shall be delivered to the Tribal Treasurer, between the first (1st) day of January and the first (1st) day of March of each year, except that the first (1st) annual report of a corporation shall be filed between the first (1st) day of January and the first (1st) day of March preceding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the Tribal Secretary. If the Tribal Secretary finds that such report conforms to law, they shall file the same. If they finds that it does not so conform, they shall promptly return the same to the corporation for any necessary correction, in which event the penalties hereinafter prescribed for failure to file such report within the time herein above provided shall not apply, if such report is corrected to conform to the requirements of this Title and returned to the Tribal Secretary within thirty (30) days from the date on which it was mailed to the corporation by the Tribal Secretary.

Chapter 11.14
Fees, Charges, Franchise Taxes and Penalties

Sections:

Section 11.14.01 Fees, Franchise Taxes and Charges to be Collected

Section 11.14.02 Fees for filing documents and Issuing Certificates

Section 11.14.03 Miscellaneous Charges

Section 11.14.04 License Fees – Class B Corporations

Section 11.14.05 Franchise Taxes Payable by Class B Corporations

Section 11.14.06 Assessment and Collection of Annual Franchise Taxes for Class B Corporations

Section 11.14.07 Penalties Imposed Upon Class B Corporations

Section 11.14.01 Fees, Franchise Taxes and Charges to be Collected

The Tribal Secretary shall charge corporations and collect from corporations in accordance with the provisions of this Title:

- A. Fees for filing documents and issuing certificates;
- B. Miscellaneous charges;
- C. License fees; and
- D. Franchise taxes.

Section 11.14.02 Fees for filing documents and Issuing Certificates

The Tribal Secretary shall charge and collect the following fees for:

- A. Filing articles and issuing a certificate of incorporation – ten dollars (\$10.00);
- B. Filing articles of amendment and issuing a certificate of amendment – ten dollars (\$10.00);
- C. Filing a restated articles – ten dollars (\$10.00);
- D. Filing a statement of change of address of registered office or change of registered agent, or both – ten dollars (\$10.00);
- E. Filing a statement of reduction of stated capital – ten dollars (\$10.00);
- F. Filing a statement of intent to dissolve – ten dollars (\$10.00);
- G. Filing a statement of revocation of voluntary dissolution proceedings – ten dollars (\$10.00);
- H. Filing articles of dissolution – ten dollars (\$10.00).

Section 11.14.03 Miscellaneous Charges

The Tribal Secretary shall charge and collect:

- A. For furnishing a certified copy of any document, instrument, or paper relating to a corporation – fifty (\$0.50) cents per page, and five dollars (\$5.00) for the certificate and affixing the seal thereto; and
- B. At the time of service of process on them as resident agent of a corporation; twenty-five dollars

(\$25.00) which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

Section 11.14.04 License Fees – Class B Corporations

The Tribal Secretary shall charge and collect from each domestic corporation license fees, based on the number of shares which it will have authority to issue or the increase in the number shares it will have authority to issue, at the time of:

- A. Filing articles
 - 1. Filing articles of amendment increasing the number of authorized shares; and
 - 2. Filing articles of merger or consolidation increasing the number of authorized shares which the surviving or new corporation, if a domestic corporation, will have the authority to issue above the aggregate number of shares which the constituent domestic corporations authorized to transact business on this Reservation had authority to issue.

The license fees shall be at the rate of ten cents (\$0.10) per share up to and including the first ten thousand (10,000) authorized shares; and five cents (\$0.05) per share for each authorized share in excess of one hundred thousand (100,000) shares. The license fees payable on an increase in the number of authorized shares shall be imposed only on the increased number of shares, and the number of previously authorized shares shall be taken into account in determining the rate applicable to the increased number of authorized shares.

Section 11.14.05 Franchise Taxes Payable by Class B Corporations

The Tribal Secretary shall charge and collect from each Class B corporation an initial franchise tax at the time of filing its articles at the rate of one twelfth (1/12) of one half (1/2) of the license fee payable by such corporation under the provisions of this Title at the time of filing its articles, for each calendar month, or fraction thereof, between the date of the issuance of the certificate of incorporation by the Tribal Secretary and the first (1st) day of July of the next succeeding calendar year.

The Tribal Secretary shall charge and collect from each domestic corporation an annual franchise tax, payable in advance for the period from July first (1st) in each year to July first (1st) in the succeeding year, beginning July first (1st) in the calendar year in which such corporation is required to file its first annual report under this Title at the rate of one per cent (1%) of the amount represented on this Reservation of the stated capital of the corporation, as disclosed by the latest report filed by the corporation with the Tribal Secretary.

The amount represented on this Reservation of the stated capital of the corporation shall be that proportion of its stated capital which the sum of the value of its property located on this Reservation and the gross amount of business transacted by it at or from places of business on this Reservation bears to the sum of the value of all of its property, wherever transacted, except as follows:

- A. If the corporation elects in its annual report in any year to pay its annual franchise tax on its entire stated capital, all franchise taxes accruing against the corporation after the filing of such annual report shall be assessed accordingly, until the corporation elects otherwise in an annual report for a subsequent year; and
- B. If the corporation fails to file its annual report in any year within the time prescribed by this Title, the proportion of its stated capital represented on this Reservation shall be deemed to be its entire stated capital, unless its annual report is thereafter filed and its franchise tax thereafter adjusted by the Tribal Secretary in accordance with the provisions of this Title in which case the proportion shall likewise be adjusted to the same proportion that would have prevailed if the corporation had filed its annual report within the time prescribed by this Title.

Section 11.14.06 Assessment and Collection of Annual Franchise Taxes for Class B Corporations

For Class B Corporations, it shall be the duty of the Tribal Secretary to collect all annual franchise taxes and penalties imposed by, or assessed in accordance with this Title. Between the first (1st) day of March and the first (1st) day of June of each year, the Tribal Secretary shall assess against each corporation required to file an annual report in such year, the franchise tax payable by it for the period from July first (1st) of such year to July first (1st) of the succeeding year in accordance with the provisions of this Title. If it has failed to file its annual report within the time prescribed by this Title, the penalty imposed by this Title upon such corporation for its failure to do so; and shall mail a written notice to each corporation against which such tax is assessed, addressed to such corporation at its registered office on this Reservation notifying the corporation:

- A. Of the amount of franchise tax assessed against it for the ensuing year and the amount of penalty, if any, assessed against it for failure to file its annual report;
- B. That objections, if any, to such assessment will be heard by the officer making the assessment on or before the fifteenth (15th) day of June of such year, upon receipt of a request from the corporation; and
- C. That such tax and penalty shall be payable to the Tribal Secretary on the first (1st) day of July next succeeding the date of the notice.

Failure to receive such notice shall not relieve the corporation of its obligation to pay the tax and penalty assessed, or invalidate the assessment thereof.

The Tribal Secretary shall have power to hear and determine objections to any assessment and, after hearing, to change and modify and such assessment. In the event of any adjustment of franchise tax with respect to which a penalty has been assessed for failure to file an annual report, the penalty shall be adjusted in accordance with the provisions of this Title imposing such penalty.

All annual franchise taxes and all penalties for failure to file annual reports shall be due and payable on the first (1st) day of July each year. If the annual franchise tax assessed against any corporation subject to the provisions of this Title together with all penalties assessed thereon, shall not be paid to the Tribal Secretary on or before the thirty first (31st) day of July of the year in which such tax is due and payable, the Tribal Secretary may institute an action against such corporation in the name of this Tribe, in any Court of competent jurisdiction, for the recovery of the amount of such franchise taxes and penalties, together with the cost of suit, and prosecute the same to final judgment.

For the purpose of endorsing collection, all annual franchise taxes assessed in accordance with the Title, and all penalties assessed thereon and all interest and costs that shall accrue in connection with the collection thereof, shall be a prior and first lien on the real and personal property of the corporation from and including the first (1st) day of July of the year when such franchise taxes become due and payable until such taxes, penalties and interests and costs have been paid.

Section 11.14.07 Penalties Imposed Upon Class B Corporations

Each Class B corporation that fails or refuses to file its annual report for any year within the time prescribed by this Title shall be subject to a penalty of ten percent (10%) of the amount of the franchise tax assessed against it for the period beginning July first (1st) of the year in which such report should have been filed. Such penalty shall be assessed by the Tribal Secretary at the time of the assessment of the franchise tax as originally assessed against such corporation, thereafter adjusted in accordance with the provisions of this Title, the amount of the penalty shall be likewise adjusted to ten percent (10%) of that amount of the adjusted franchise tax; the amount of the franchise tax and the amount of the penalty shall be separately stated in any notice to the corporation with respect thereto.

If the franchise tax assessed in accordance with the provisions of this Title shall not be paid on or before the thirty first (31st) day of July, it shall be deemed delinquent, and there shall be added a penalty of one percent (1%) for each month that the same is delinquent commencing with the month of August. Each corporation that fails to or refuses to answer truthfully and fully within the time prescribed by this Title interrogatories propounded by the Tribal Secretary in accordance with the provisions of this Title, shall be deemed to be guilty of a misdemeanor and upon conviction thereof may be fined in an amount not to exceed five hundred dollars (\$500.00).

Chapter 11.15
Investigations by the Tribal Secretary

Sections:

Section 11.15.01 Interrogatories by the Tribal Secretary

Section 11.15.02 Information Disclosed by Interrogatories

Section 11.15.03 Certificates and Certified Copies to be Received in Evidence

Section 11.15.01 Interrogatories by the Tribal Secretary

The Tribal Secretary may propound to any corporation, domestic or foreign, subject to the provisions of this Title and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all the provisions of this Title applicable to such corporation. Such interrogatories shall be answered within thirty (30) days after the mailing thereof, or within such additional time as shall be fixed by the Tribal Secretary, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by them, and if directed to a corporation they shall be answered by the President, Vice-President, Secretary, or assistant secretary thereof. The Tribal Secretary need not file any document to which such interrogatories relate until such interrogatories are answered as herein provided, and then if the answers disclose that such document is not in conformity with the provisions of this Title.

Section 11.15.02 Information Disclosed by Interrogatories

Interrogatories propounded by the Tribal Secretary and the answers thereto shall not be open to public inspection nor shall the Tribal Secretary disclose any facts or information obtained there from except insofar as their official duty may require the same to be made public or in the event such interrogatory or the answers thereto are required for evidence in any criminal proceedings or in any other action by the Tribes. Appeals from all final orders and judgments entered by the Tribal Court under this Section in review of any ruling or decisions of the Tribal Secretary may be taken as in other civil actions.

Section 11.15.03 Certificates and Certified Copies to be Received in Evidence

All certificates issued by the Tribal Secretary in accordance with the provisions of this Title and all copies of documents filed in their office in accordance with the provisions of this Title, when certified by them, shall be taken and received in all Courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the Tribal Secretary under the Seal of the Tribes, as to the existence or non-existence of the facts relating to corporations shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated.

Chapter 11.16
Sale of Corporate Assets

Sections:

Section 11.16.01 Sale of Assets in Regular Course of Business and Mortgage or Pledge of Assets
of Assets Other Than in Regular Course of Business

Section 11.16.02 Sale of Assets Other Than in Regular Course of Business

Section 11.16.01 Sale of Assets in Regular Course of Business and Mortgage or Pledge of Assets

The sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual and regular course of business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations or other securities of any other corporation, domestic or foreign, as shall be authorized by its Board of Directors; and in any such case, no authorization or consent of the shareholders shall be required.

Section 11.16.02 Sale of Assets Other Than in Regular Course of Business

A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets with or without the good will, of a corporation, if not in the usual and regular course of its business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, including shares, obligations, or other securities of any other corporation, domestic or foreign, as may be authorized, in the following manner:

- A. The Board of Directors shall adopt a resolution recommending such sale, lease, exchange or other disposition and directing the submission thereof to a vote at a meeting of shareholders, which may be either an annual or special meeting;
- B. Written notice shall be given to each shareholder of record, whether or not entitled to vote at such meeting not less than twenty (20) days before such meeting, in the manner provided in this Title for the giving of notice of meetings of shareholders and, whether the meeting be an annual or a special meeting, shall state that the purpose, or one of the purposes is to consider the proposed sale, lease, exchange, or other disposition;
- C. At such meeting the shareholders may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the Board of Directors to fix, any or all of the terms and conditions thereof, and the consideration to be received by the corporation therefore. Such authorization shall require the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event such authorization shall require the affirmative vote of the holders of a majority of the shares of each class of shares entitled to vote as a class thereon and of the total shares entitled to vote thereon; and
- D. After such authorization by a vote of shareholders, the Board of Directors, nevertheless, in its discretion, may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by shareholders.

Chapter 11.17
Corporate Dissolution and Liquidation

Sections:

- Section 11.17.01 Class A Corporations Articles of Dissolution**
- Section 11.17.02 Class B Corporations - Voluntary Dissolution by Incorporators**
- Section 11.17.03 Voluntary Dissolution by Consent of Shareholders**
- Section 11.17.04 Voluntary Dissolution by Act of Corporation**
- Section 11.17.05 Filing of Statement of Intent to Dissolve**
- Section 11.17.06 Effect of Statement of Intent to Dissolve**
- Section 11.17.07 Procedure After Filing of Statement of Intent to Dissolve**
- Section 11.17.08 Revocation of Voluntary Dissolution Proceedings by Consent of Shareholders**
- Section 11.17.09 Revocation of Voluntary Dissolution Proceedings by Act of Corporation**
- Section 11.17.10 Filing of Statement of Revocation of Voluntary Dissolution Proceedings**
- Section 11.17.11 Effect of Statement of Revocation of Voluntary Dissolution Proceedings**
- Section 11.17.12 Articles of Dissolution**
- Section 11.17.13 Filing of Articles of Dissolution**
- Section 11.17.14 Involuntary Dissolution**

Section 11.17.01 Class A Corporation Articles of Dissolution

The Council may dissolve a Class A Corporation by adopting articles of dissolution setting forth:

- A. The name of the corporation;
- B. That the Tribal Secretary theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed;
- C. That all debts, obligations, and liabilities and obligations of the corporation have been paid and discharged or that adequate provisions have been made therefore;
- D. That all the remaining property and assets of the corporation have been distributed to the Tribe and other shareholders, in any, in accordance with their respective rights and interests; and
- E. That there are no suits pending against the corporation in any Court, or that adequate provisions have been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

Section 11.17.02 Class B Corporations - Voluntary Dissolution by Incorporators

A corporation which has not commenced business and which has not issued any shares may be voluntarily dissolved by its incorporators at any time in the following manner:

- A. Articles of dissolution shall be executed in duplicate by a majority of the incorporators, and verified by the, and shall set forth:
 - 1. The name of the corporation;
 - 2. The date of issuance of its certificate of incorporation;
 - 3. That none of its shares have been issued;
 - 4. That the corporation has not commenced business;
 - 5. That the amount, if any, actually paid in on subscriptions for its shares, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto;

6. That no debts of the corporation remain unpaid; and
 7. That a majority of the incorporators elect that the corporation be dissolved;
- B. Duplicate originals of such articles of dissolution shall be delivered to the Tribal Secretary. If the Tribal Secretary finds that such articles of dissolution conform to this Title, they shall, when all fees and franchise taxes have been paid as in this Title prescribed:
1. Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of the filing thereof;
 2. File one (1) of such duplicate original in their office; and
 3. Issue a certificate of dissolution to which they shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Tribal Secretary, shall be returned to the incorporators or their representative. Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease.

Section 11.17.03 Voluntary Dissolution by Consent of Shareholders

A corporation may be voluntarily dissolved by the written consent of all its shareholders. Upon the execution of such written consent, a statement of intent to dissolve shall be executed in duplicate by the corporation; by its President or Vice-President and by its Secretary or assistance secretary and verified by one of the officers signing such statement, which statement shall set forth:

- A. The name of the corporation;
- B. The names and respective addresses of its officers;
- C. The names and respective addresses of its directors;
- D. A copy of the written consent signed by all shareholders of the corporation; and
- E. A statement that such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys who are duly authorized.

Section 11.17.04 Voluntary Dissolution by Act of Corporation

A corporation may be dissolved by the act of the corporation, when authorized in the following manner:

- A. The Board of Directors shall adopt a resolution recommending that the corporation be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of shareholders, which may be either an annual meeting or a special meeting;
- B. Written notice shall be given to each shareholder of record entitled to vote at such meeting, within the time and in the manner provided in this Title for the giving of notice of meetings to shareholders, and whether the meeting be an annual or special meeting, shall state that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation;
- C. At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to dissolve the corporation. Such resolution shall be adopted upon receiving the affirmative vote of the holders of a majority of the shares of the corporation entitled to vote thereon; and
- D. Upon the adoption of such resolution by the members, a statement of intent to dissolve shall be executed in duplicate by the corporation; by its President or Vice-President and by its Secretary or

assistance secretary, and verified by one of the officers signing such statement, which statement shall set forth:

1. The name of the corporation;
2. The names and respective addresses of its officers;
3. The names and respective addresses of its directors;
4. A copy of the resolution adopted by all shareholders authorizing the dissolution of the corporation;
5. The number of shares outstanding, and if the shares of any class are entitled to vote as a class, the designation and number of outstanding shares of each such class; and
6. The number of shares voted for and against the resolution, respectively;

Section 11.17.05 Filing of Statement of Intent to Dissolve

Duplicate originals of the statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, shall be delivered to the Tribal Secretary. If the Tribal Secretary finds that such articles of dissolution conform to law, they shall, when all fees and franchise taxes have been paid as in this Title prescribed:

- A. Endorse on each of such duplicate original the word "Filed," and the month, day, and year of the filing thereof;
- B. File one of such duplicate original in their office; and
- C. Return the other duplicate original to the corporation or representative.

Section 11.17.06 Effect of Statement of Intent to Dissolve

Upon the filing by the Tribal Secretary of a statement of intent to dissolve, whether by consent of shareholders or by act of the corporation, the corporation shall cease to carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until a certificate of dissolution has been issued by the Tribal Treasurer or until a decree dissolving the corporation has been entered by a court of competent jurisdiction as in this Title provided.

Section 11.17.07 Procedure After Filing of Statement of Intent to Dissolve

After the filing by the Tribal Secretary of a statement of intent to dissolve:

- A. The corporation shall immediately cause notice thereof to be mailed to each known creditor of the corporation;
- B. The corporation shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its shareholders; pay, satisfy and discharge its liabilities and obligations and do all other acts required to liquidate its business and affairs; and after paying or adequately providing for the payment of all its obligations, distribute the remainder of its assets, either in cash or in kind, among its shareholders according to their respective rights and interests; and
- C. The corporation, at any time during the liquidation of its business and affairs, may make application to the Tribal Court, to have liquidation continued under the supervision of the Court, as provided in this Title.

Section 11.17.08 Revocation of Voluntary Dissolution Proceedings by Consent of Shareholders

By the written consent of all its shareholders, a corporation may, at any time prior to the issuance of a certificate of

dissolution by the Tribal Secretary, revoke voluntary dissolution proceedings theretofore taken, in the following manner: Upon the execution of such written consent, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation; by its President or a Vice President, and its Secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- A. The name of the corporation;
- B. The names and respective addresses of its officers;
- C. The names and respective addresses of its directors;
- D. A copy of the written consent signed by all shareholders of the corporation revoking such voluntary dissolution proceedings; and
- E. That such written consent has been signed by all shareholders of the corporation or signed in their names by their attorneys who are duly recognized.

Section 11.17.09 Revocation of Voluntary Dissolution Proceedings by Act of Corporation

By the act of the corporation, a corporation may, at any time prior to the issuance of a certificate of dissolution by the Tribal Treasurer, revoke voluntary dissolution proceeding theretofore taken, in the following manner:

- A. The Board of Directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a special meeting of shareholders;
- B. Written notice, stating that the purpose or one of the purposes of the meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each shareholder entitled to vote at such meeting within the time and in the manner provided in this Title for the giving of notice of special meetings to shareholders;
- C. At such meeting a vote of shareholders entitled to vote thereat shall be taken on a resolution to revoke the voluntary dissolution proceedings, which shall require, for the adoption, the affirmative vote of the holders of a majority of the shares entitled to vote thereon; and
- D. Upon adoption of such resolution by the members, a statement of revocation of voluntary dissolution proceedings shall be executed in duplicate by the corporation; by its President or Vice President and by its Secretary or assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:
 - 1. The name of the corporation;
 - 2. The names and respective addresses of its officers;
 - 3. The names and respective addresses of its directors;
 - 4. A copy of the resolution adopted by the shareholders revoking the voluntary dissolution proceedings;
 - 5. The number of shares outstanding; and
 - 6. The number of shares voted for and against the resolution, respectively.

Section 11.17.10 Filing of Statement of Revocation of Voluntary Dissolution Proceedings

Duplicate originals of the statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, shall be delivered to the Tribal Treasurer. If the Tribal Secretary finds that

such statement conforms to law, they shall, when all fees and franchise taxes have been paid as in this Title prescribed:

- A. Endorse on each of such duplicate original the word "Filed," and the month, day, and year of such filing thereof; and
- B. File one of such duplicate originals to the corporation or its representative.

Section 11.17.11 Effect of Statement of Revocation of Voluntary Dissolution Proceedings

Upon the filing by the Tribal Secretary of a statement of revocation of voluntary dissolution proceedings, whether by consent of shareholders or by act of the corporation, the revocation of the voluntary dissolution proceedings shall become effective and the corporation may again carry on its business.

Section 11.17.12 Articles of Dissolution

If voluntary dissolution proceedings have not been revoked, when all debts, liabilities, and obligations of the corporation shall have been paid and discharged, or adequate provision has been made therefore, and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed in duplicate by the corporation, by its President or a Vice President, and by its Secretary or an assistant secretary, and verified by one of the officers signing such statement, which such statement shall set forth:

- A. The name of the corporation;
- B. That the Tribal Secretary theretofore filed a statement of intent to dissolve the corporation, and the date on which such statement was filed;
- C. That all debts, obligations, and liabilities and obligations of the corporation have been paid and discharged or that adequate provisions have been made therefore;
- D. That all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests; and
- E. That there are no suits pending against the corporation in any Court, or that adequate provisions have been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

Section 11.17.13 Filing of Articles of Dissolution

Duplicate originals of such articles of dissolution shall be delivered to the Tribal Secretary. If Tribal Secretary finds that such articles of dissolution conform to law, they shall, when all fees and franchise taxes have been paid as in this Title prescribed:

- A. Endorse on each of such duplicate originals the word "Filed," and the month, day, and year of such filing thereof;
- B. File one of such duplicate original in their office; and
- C. Issue a certificate of dissolution to which they shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the Tribal Secretary shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by shareholders, directors and officers as provided in this Title.

Section 11.17.14 Involuntary Dissolution

A Class B corporation may be dissolved involuntarily by a decree of the Tribal Court in an action instituted by the Tribal Secretary when it is established that:

- A. The corporation has failed to file its annual report within the time required by this Title, or has failed to pay its franchise tax on or before the first (1st) day of August of the year in which such franchise tax becomes due and payable; or
- B. The corporation procured its articles through fraud; or
- C. The corporation has continued to exceed or abuse the authority conferred upon it by law; or
- D. The corporation has failed for thirty (30) days to appoint and maintain a registered office or registered agent on this Reservation; or
- E. The corporation has failed for thirty (30) days, after change of its registered office or registered agent to file in the office of the Tribal Secretary, a statement of such change.

Chapter 11.18
Tribal Court Liquidation of Class A and Class B Corporations

Sections:

Section 11.18.01 Jurisdiction of Court to Liquidate Assets and Affairs of Corporation

Section 11.18.02 Procedure in Liquidation of Corporation by Tribal Court

Section 11.18.03 Qualification of Receivers

Section 11.18.04 Filing of Claims in Liquidation Proceedings

Section 11.18.05 Discontinuance of Liquidation Proceedings

Section 11.18.06 Decree of Involuntary Dissolution

Section 11.18.07 Filing of Dissolution Decree

Section 11.18.08 Deposits with Tribal Secretary

Section 11.18.09 Survival of Remedy After Dissolution

Section 11.18.01 Jurisdiction of Court to Liquidate Assets and Affairs of Corporation

The Tribal Court shall have full power to liquidate the assets and business of a corporation:

- A. For Class B Corporations, in any action by a shareholder when it is established:
 - 1. That the Directors are deadlocked in the management of the corporation affairs and that the shareholders are unable to break the deadlock; and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or
 - 2. That the acts of the Director or those in control of the corporation are illegal, oppressive or fraudulent; or
 - 3. That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two (2) consecutive annual meeting dates, to elect successors to Directors whose terms have expired or would have expired upon the election of their successors; or
 - 4. That the corporation assets are being misapplied or wasted.
- B. For both Class A and Class B Corporations, in an action by a creditor, when the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent;
- C. For a Class B Corporation, upon application by a corporation which has filed a statement of intent to dissolve, as provided in this Title, to have its liquidation continued under the supervision of the Court; and
- D. For Class B Corporations, when an action has been commenced by the Tribal Secretary to dissolve a corporation and it is established that liquidation of its business and affairs should precede the entry of a decree of dissolution; It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

Section 11.18.02 Procedure in Liquidation of Corporation by Tribal Court

In proceedings to liquidate the assets and business of a corporation, the Court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the Court, from time to time, may direct and to take such other proceedings as may be requested to preserve the corporate assets wherever situated, and carry on business of the corporation until a full hearing can be held;

After a hearing had upon such notice as the Court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the Court, the Court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation, including all amounts owing to the corporation by subscribers on

account of any unpaid portion of the consideration for the issuance of shares. Such liquidating receiver shall have authority, subject to the order of the Court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale;

The assets of the corporation of the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied to the expenses of such liquidation and to the payment of the liabilities and obligations of the corporation, and any remaining assets or proceeds shall be distributed among its shareholders, or in the case of a Class A Corporation, to the Tribe and other shareholders, if any, according to their respective rights and interests;

The order appointing such liquidating receiver shall state their powers and duties. Such power and duties may be increased or diminished at any time during the proceedings. The Court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceedings, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets; and

A receiver of a corporation appointed under the provisions of this Section shall have authority to sue and defend in all courts in their own name as receiver of such corporation. The Court appointing such receiver(s) shall have exclusive jurisdiction of the corporation and its property, wherever situated.

Section 11.18.03 Qualification of Receivers

A receiver shall in all cases be a natural person or a corporation authorized to act as receiver and shall in all cases give such bond as the Court may direct with such sureties as the Court may require.

Section 11.18.04 Filing of Claims in Liquidation Proceedings

In proceedings to liquidate the assets and business of a corporation, the Court may require all creditors of the corporation to file with the Clerk of Court, or with the receiver, in such form as the Court may prescribe, proof under oath of their respective claims. If the Court requires the filing of claims it shall fix a date, which shall be not less than four (4) months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the Court may extend the time for the filing of claims; and

Creditors and claimants failing to file proofs or claims on or before the date so fixed may be barred, by order of the Court, from participating in the distribution of the assets of the Corporation.

Section 11.18.05 Discontinuance of Liquidation Proceedings

The liquidation of the assets and business of a corporation may be discontinued at any time during the liquidation proceedings when it is made to appear that cause for liquidation no longer exists. In such event the Court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

Section 11.18.06 Decree of Involuntary Dissolution

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed to its shareholders; or in the case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, all the property and assets have been applied so far as they will go to their payment, the Court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

Section 11.18.07 Filing of Dissolution Decree

In case the Court shall enter a decree dissolving a corporation, it shall be the duty of the Clerk of such Court to cause a certified copy of the decree to be filed with the Tribal Secretary. No fee shall be charged by the Tribal Secretary for the filing.

Section 11.18.08 Deposits with Tribal Secretary

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to a creditor or

a shareholder who is unknown or cannot be found, or who are under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and be deposited with the Tribal Secretary and shall be paid over to such creditor or shareholder or their legal representative upon proof satisfactory to the Tribal Secretary of their rights.

Section 11.18.09 Survival of Remedy After Dissolution

The dissolution of a corporation either by the issuance of a certificate of dissolution by the Tribal Secretary, or by a decree of the Court when the Court has not liquidated the assets and business of the corporation as provided in this Title, or by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or shareholders, for any right or claim existing; or any liability incurred, prior to such dissolution action or other proceeding thereon if commenced within two (2) years after the date of such dissolution, any action or proceeding by or against the corporation in its corporate name.

The Tribe, shareholders, directors, and officers shall have the power to take such corporate or other action as shall be appropriate to protect such remedy, right, or claim. If such corporation was dissolved at the expiration of its period of duration, such corporation may amend its articles at any time during such period of two (2) years so as to extend its period of duration.

Chapter 11.19
Codification and Amendments

Sections:

Section 11.19.01 Date of Codification

Section 11.19.02 Amendments

Section 11.19.01 Date of Codification

Title 11 Business Corporation was approved on May 8, 2003 at a Tribal Council meeting and codified as a Title of the code on February 18, 2005 by resolution #11-05.

Section 11.19.02 Amendments