

Social Enterprise Associates
Tip Sheet #6

Co-authored with the
International Transactions Clinic
University of Michigan Law School

Tip sheets #5-8 are a series of 4 annotated commentaries to assist entrepreneurs interested in creating and operating ventures in the United States by providing easy-to-understand explanations for common legal documents.

Tip Sheet #6

Articles of Organization (Limited Liability Company)

Understanding what articles of organization mean when registering a limited liability company in the U.S.

Introduction

Taking an idea from conceptualization to inception and finally to market is filled with many challenges. Legal documents in particular are hard for entrepreneurs to understand, so many gloss over them. However, they carry immense importance, as bad or wrong documents can cost a lot of money.

Social Enterprise Associates (SEA) and the International Transactions Clinic (ITC) at the University of Michigan Law School collaborated to produce four annotated commentaries (Social Enterprise Associates Tip Sheets #5-8) to assist entrepreneurs interested in creating and operating ventures in the United States by providing clear and easy-to-understand language that deciphers common business legal documents. These four documents are:

- Tip Sheet #5 – Articles of Incorporation
- Tip Sheet #6 – Articles of Organization (LLC)
- Tip Sheet #7 – Commercial Loan Agreement
- Tip Sheet #8 – Biggest Concerns for Foreign Investment in the U.S.

Articles of Organization-Limited Liability Company

A Limited Liability Company (LLC) is a type of corporate form that blends elements of a Partnership and a Corporation. The LLC is a relatively new type of entity, but is found in nearly every state today and has become quite popular for entrepreneurs and other smaller businesses. The primary characteristics of an LLC are “limited liability” and “pass through taxation” (this means that the entity itself is not taxed, as is the case with a corporation, but the tax burden is passed through to the members).

Articles of Organization is the document that delineates how the LLC is run. It determines whether the LLC is member managed or director managed, the degree of transferability of the stock, and a number of other governance issues. The document below is a sample (and representative of the) Articles of Organization that covers most of the important features found in any similar document.

ARTICLES OF ORGANIZATION OF [COMPANY LEGAL NAME] LIMITED LIABILITY COMPANY

[I or We], [Owner/Founder], desiring to form a limited liability company for the purposes set forth herein and in conformance with the [State] Limited Liability Company Act, do establish:

The yellow boxes below provide explanations in regular English, about what the document says and what it means.

1. Company Name

That the name of the limited liability company is:

[Company Legal Name] Limited Liability Company (LLC).

2. Duration

Effective Date: **[Date]**

That the period of duration of this limited liability company is thirty years from the date of filing hereof with the [State], unless sooner dissolved as provided by [State] law.

3. Purpose

That the purpose for which this limited liability company is organized is primarily to [Purpose of the LLC], and other goods and services that are permitted by law, within and without the [State] as the laws of [State] and other states permit.

4. Principal Place of Business

That the address of its principal place of business is:

[Address], [City], [State] [Zip Code]

5. Registered Agent & Office

That the name of its registered agent, whose Consent to Appointment as Registered Agent accompanies these articles, is [Agent Name], and address of the agent at the registered office is:

[Agent Address]

In Section 5, a “Registered Agent” is an individual person or organization designated in the Articles of Incorporation to receive service of process when the Corporation is subject to legal action such as lawsuits or summons. The Registered Agent must be in the state where the entity is incorporated. Appointing a Registered Agent means that you are subject to the laws and jurisdiction of the state of incorporation.

6. Capitalization

That the total capital contributions of each Member, which is his or its respective undivided interest in personal property having at least a value totaling \$[Contribution] should be allocated as follows:

- [Member Name], *[Title of Member]*
[Member Address] \$[xxx]

- [Member Name], *[Title of Member]*
[Member Address] \$[xxx]

- [Member Name], *[Title of Member]*
[Member Address] \$[xxx]

7. Additional Liability of Members

That no additional capital contributions will be required.

8. Admission of Additional Members

That additional Members will be admitted or expelled only with the unanimous consent of all Members entitled to participate in management and upon such terms as are unanimously agreed to by all Members entitled to a dividend upon dissolution or liquidation.

9. Continuity of Life

That the remaining Members of the limited liability company may only have the right to continue the business upon the death, retirement, resignation, expulsion, bankruptcy or dissolution of a Member or occurrence of any other event which terminates the continued Membership of a Member in this limited liability company if they unanimously elect to do so. The return of capital and the distribution of profits shall be determined from the company's books, as of the effective date of withdrawal, based on generally accepted accounting practices, and paid as soon as practicable without diminishing the prospects of the company's ventures and subject to the limitations of the [State] Limited Liability Company Act.

The primary advantage of an LLC that is shared with a corporation is limited liability. This means that each "member" of the LLC is limited to a fixed sum. This sum is normally the amount invested in the LLC. Section 6 outlines the capital contributions of each member and is the amount that each is personally liable for should a judgment be entered against the LLC.

Members are not liable beyond the amount contributed in Section 6. However, should you decide that one person or persons should be liable for an additional amount, this amount can be specified in Section 7.

Note: In exceptional circumstances a court can "pierce the corporate veil" and reach the assets of the individual director if the corporate entity is a "sham" or "fraud" designed solely to protect an individual or individuals from liability incurred by their criminal activity.

Section 8 governs adding additional members. The specifics of this section will vary dramatically based on the individuals involved in the business and plans for future growth. Should you want to facilitate the entry of additional members to bring in capital, IP, etc. then this section could be amended to allow for a majority vote rather than unanimity.

Section 9 governs the dissolution of the Company in the event of the death of a member. Like Section 8, this provision can be changed to reflect the wishes of the founding members.

10. Management

The business of the company shall be conducted under the exclusive management of its Members, or outside managers if its Members unanimously elect, who shall have exclusive authority to act for the company in all matters. The Members may from time to time designate certain Members as Officers to act for the Company in certain matters as specified by the [LLC Operating Agreement].

DATED this _____ day of _____,
_____.

[Member Name]

Notary Acknowledgment

State of [State])
) ss
County of [County])

On this _____, before me personally appeared [Member Name], to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that [Member Name] executed the same as [His/Her] free act and deed.

Notary Public

About the author: **Drew Tulchin** of Social Enterprise Associates, and International Transactions Clinic students **Benjamin Lawless** and **Rory Wellever**, who graduated from Michigan Law School in May 2011, created this document under the supervision of ITC director **Rachel Deming**.



www.socialenterprise.net

Social Enterprise Associates, a registered “B Corporation,” is an U.S. consulting firm applying business and market principles to social, environmental and community efforts seeking to ‘do well by doing good.’ Management team has decades of experience in for-profit and non-profit organizations, developing strategy, raising capital, implementing new programs, and marketing core concepts. Reach the company at **202-256-2692** or **drew@socialenterprise.NET**.



Michigan Law
UNIVERSITY OF MICHIGAN LAW SCHOOL

www.law.umich.edu/clinical/
internationaltransactionclinic

The International Transactions Clinic at the University of Michigan Law School is the first law school clinic to train highly qualified lawyers who graduate already experienced representing clients’ interests in transactional matters with international focus. ITC’s major clients are socially responsible investors who want to see their investments create financial, social, and environmental returns in emerging markets. Reach ITC at **734-763-9377**.