2008 DELAWARE REVISED UNIFORM LIMITED PARTNERSHIP ACT

Additions to the 2007 Delaware Revised Uniform Limited Partnership Act (the "2007 Act") as a result of the amendments, effective January 1, 2008, and August 1, 2008 (the "2008 Amendments"), are underlined, and deletions from the 2007 Act as a result of the 2008 Amendments are bracketed.

SUBCHAPTER I—GENERAL PROVISIONS

§17-101. DEFINITIONS.

As used in this chapter unless the context otherwise requires:

(1) "Certificate of limited partnership" means the certificate referred to in § 17-201 of this title, and the certificate as amended.

(2) "Contribution" means any cash, property, services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in § 17-402 of this title.

(4) "Foreign limited partnership" includes a partnership formed under the laws of any state or under the laws of any foreign country or other foreign jurisdiction and having as partners 1 or more general partners and 1 or more limited partners.

(5) "General partner" means a person who is named as a general partner in the certificate of limited partnership or similar instrument under which a limited partnership is formed if so required and who is admitted to the limited partnership as a general partner in accordance with the partnership agreement or this chapter.

(6) "Knowledge" means a person's actual knowledge of a fact, rather than the person's constructive knowledge of the fact.

(7) "Limited liability limited partnership" means a limited partnership complying with § 17-214 of this chapter.

(8) "Limited partner" means a person who is admitted to a limited partnership as a limited partner as provided in § 17-301 of this title or, in the case of a foreign limited partnership, in accordance with the laws of the state or

foreign country or other foreign jurisdiction under which the limited partnership is formed.

(9) "Limited partnership" and "domestic limited partnership" mean a partnership formed [by 2 or more persons] under the laws of the State of Delaware **consisting of two (2) or more persons** and having 1 or more general partners and 1 or more limited partners, and includes, for all purposes of the laws of the State of Delaware, a limited liability limited partnership.

(10) "Liquidating trustee" means a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership.

(11) "Partner" means a limited or general partner.

(12) "Partnership agreement" means any agreement, written, oral or implied, of the partners as to the affairs of a limited partnership and the conduct of its business. A partner of a limited partnership or an assignee of a partnership interest is bound by the partnership agreement whether or not the partner or assignee executes the partnership agreement. A limited partnership is not required to execute its partnership agreement. A limited partnership is bound by its partnership agreement whether or not the limited partnership executes the partnership agreement. A partnership agreement may provide rights to any person, including a person who is not a party to the partnership agreement, to the extent set forth therein. A written partnership agreement or another written agreement or writing:

a. May provide that a person shall be admitted as a limited partner of a limited partnership, or shall become an assignee of a partnership interest or other rights or powers of a limited partner to the extent assigned (i) if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) executes the partnership agreement or any other writing evidencing the intent of such person to become a limited partner or assignee, or (ii) without such execution, if such person (or a representative authorized by such person orally, in writing or by other action such as payment for a partnership interest) complies with the conditions for becoming a limited partner or assignee as set forth in the partnership agreement or any other writing; and

b. Shall not be unenforceable by reason of its not having been signed by a person being admitted as a limited partner or becoming an assignee as provided in paragraph a. of this subdivision, or by reason of its having been signed by a representative as provided in this title.

(13) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(14) "Person" means a natural person, partnership (whether general or limited), limited liability company, trust **(including a common law trust, business trust, statutory trust, voting trust or any other form of trust)**, estate, association (including any group, organization, co-tenancy, plan, board, council or committee), corporation, government (including a country, state, county or any

other governmental subdivision, agency or instrumentality), custodian, nominee or any other individual or entity (or series thereof) in its own or any representative capacity, in each case, whether domestic or foreign.

(15) "Personal representative" means, as to natural person, the executor, administrator, guardian, conservator or other legal representative thereof and, as to a person other than a natural person, the legal representative or successor thereof.

(16) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the State of Delaware.

§17-102. NAME SET FORTH IN CERTIFICATE.

The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain the words "Limited Partnership" or the abbreviation "L.P." or the designation "LP" or, in the case of a limited partnership that is formed as or becomes a limited liability limited partnership, shall contain the words, abbreviation or designation required by § 17-214(a) of this Title;

(2) May contain the name of a partner;

(3) Must be such as to distinguish it upon the records in the Office of the Secretary of State from the name on such records of any corporation, partnership, limited partnership, statutory trust or limited liability company reserved, registered or organized under the laws of the State of Delaware or qualified to do business or registered as a foreign corporation, foreign limited partnership, foreign statutory trust, foreign partnership or foreign limited liability company in the State of Delaware; provided, however, that a limited partnership may register under any name which is not such as to distinguish it upon the records in the Office of the Secretary of State from the name on such records of any domestic or foreign corporation, partnership, limited partnership, statutory trust or limited liability company reserved, registered or organized under the laws of the State of Delaware with the written consent of the other corporation, partnership, statutory trust or limited liability company, which written consent shall be filed with the Secretary of State; and

(4) May contain the following words: "Company", "Association", "Club", "Foundation", "Fund", "Institute", "Society", "Union", "Syndicate", "Limited" or "Trust" (or abbreviations of like import).

§17-103. RESERVATION OF NAME.

(a) The exclusive right to the use of a name may be reserved by:

(1) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(2) Any domestic limited partnership or any foreign limited partnership registered in the State of Delaware which, in either case, proposes to change its name;

(3) Any foreign limited partnership intending to register in the State of Delaware and adopt that name; and

(4) Any person intending to organize a foreign limited partnership and intending to have it register in the State of Delaware and adopt that name.

(b) The reservation of a specified name shall be made by filing with the Secretary of State an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. If the Secretary of State finds that the name is available for use by a domestic or foreign limited partnership, he shall reserve the name for the exclusive use of the applicant for a period of 120 days. Once having so reserved a name, the same applicant may again reserve the same name for successive 120 day periods. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be cancelled by filing with the Secretary of State a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be cancelled and the name and address of the applicant or transferee. Unless the Secretary of State finds that any application, notice of transfer, or notice of cancellation filed with the Secretary of State as required by this subsection does not conform to law, upon receipt of all filing fees required by law he shall prepare and return to the person who filed such instrument a copy of the filed instrument with a notation thereon of the action taken by the Secretary of State.

(c) A fee as set forth in § 17-1107(a)(1) of this title shall be paid at the time of the initial reservation of any name, at the time of the renewal of any such reservation and at the time of the filing of a notice of the transfer or cancellation of any such reservation.

§17-104. REGISTERED OFFICE; REGISTERED AGENT.

(a) Each limited partnership shall have and maintain in the State of Delaware:

(1) A registered office, which may but need not be a place of its business in the State of Delaware; and

(2) A registered agent for service of process on the limited partnership, having a business office identical with such registered office, which agent may be any of

a. the limited partnership itself,

b. an individual resident in the State of Delaware,

c. a domestic limited liability company, a domestic corporation, a domestic partnership (whether general (including a limited liability partnership) or limited (other than the limited partnership itself, including a limited liability limited partnership)), or a domestic statutory trust, or

d. a foreign corporation, a foreign partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), a foreign limited liability company, or a foreign statutory trust.

(b) A registered agent may change the address of the registered office of the limited partnership(s) for which it is registered agent to another address in the State of Delaware by paying a fee as set forth in § 17-1107(a)(2) of this title and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the address at which such registered agent has maintained the registered office for each of the limited partnerships for which it is a registered agent, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the limited partnerships for which it is a registered agent. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office in the State of Delaware of each of the limited partnerships for which the agent is a registered agent shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a limited partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed and the address at which such registered agent has maintained the registered office for each of the limited partnerships for which it is a registered agent, and shall pay a fee as set forth in § 17-1107(a)(2) of this title. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the certificate under his or her hand and seal of office. A change of name of any person acting as a registered agent of a limited partnership as a result of a merger or consolidation of the registered agent, with or into another person which succeeds to its assets and liabilities by operation of law, shall be deemed a change of name for purposes of this section. Filing a certificate under this section shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby and each such limited partnership shall not be required to take any further action with respect thereto, to amend its certificate of limited partnership under § 17-202 of this title. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each limited partnership affected thereby.

(c) The registered agent of 1 or more limited partnerships may resign and appoint a successor registered agent by paying a fee as set forth in § 17-1107(a)(2) of this title and filing a certificate with the Secretary of State, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement of each affected limited partnership ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such limited partnerships as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such limited partnership's registered office in the State of Delaware. The Secretary of State shall then issue a certificate that the successor registered agent has become the registered agent of the limited partnerships so ratifying and approving such change and setting out the names of such limited partnerships. Filing of such certificate of resignation shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby and each such limited partnership shall not be required to take any further action with respect thereto to amend its certificate of limited partnership under § 17-202 of this title.

(d) The registered agent of one or more limited partnerships may resign without appointing a successor registered agent by paying a fee as set forth in § 17-1107(a)(2) of this title and filing a certificate of resignation with the Secretary of State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall contain a statement that written notice of resignation was given to each affected limited partnership at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the limited partnership at its address last known to the registered agent and shall set forth the date of such notice. After receipt of the notice of the resignation of its registered agent, the limited partnership for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such limited partnership fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 30 days after the filing by the registered agent of the certificate of resignation, the certificate of such limited partnership shall be cancelled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against each limited partnership for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 17-105 of this title.

(e) Every registered agent shall:

(1) If an entity, maintain a business office in the State of Delaware which is generally open, or if an individual, be generally present at a designated location in the State of Delaware, at sufficiently frequent times to accept service of process and otherwise perform the functions of a registered agent;

(2) If a foreign entity, be authorized to transact business in the State of Delaware;

(3) Accept service of process and other communications directed to the limited partnerships and foreign limited partnerships for which it serves as registered agent and forward same to the limited partnership or foreign limited partnership to which the service or communication is directed; and

(4) Forward to the limited partnerships and foreign limited partnerships for which it serves as registered agent the statement for the annual tax described in § 17-1109 of this Title or an electronic notification of same in a form satisfactory to the Secretary of State.

(f) Any registered agent, who at any time serves as registered agent for more than fifty entities (a "Commercial Registered Agent"), whether domestic or foreign, shall satisfy and comply with the following qualifications.

(1) A natural person serving as a Commercial Registered Agent shall:

a. Maintain a principal residence or a principal place of business in the State of Delaware;

b. Maintain a Delaware business license;

c. Be generally present at a designated location within the State of Delaware during normal business hours to accept service of process and otherwise perform the functions of a registered agent as specified in subsection (e); and

d. Provide the Secretary of State upon request with such information identifying and enabling communication with such Commercial Registered Agent as the Secretary of State shall require.

(2) A domestic or foreign corporation, a domestic or foreign partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), a domestic or foreign limited liability company, or a domestic or foreign statutory trust serving as a Commercial Registered Agent shall:

a. Have a business office within the State of Delaware which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent as specified in subsection (e);

b. Maintain a Delaware business license;

c. Have generally present at such office during normal business hours an officer, director or managing agent who is a natural person; and

d. Provide the Secretary of State upon request with such information identifying and enabling communication with such Commercial Registered Agent as the Secretary of State shall require.

(3) For purposes of this subsection and subsection (i)(2)a., a Commercial Registered Agent shall also include any registered agent which has an officer, director or managing agent in common with any other registered agent or agents if such registered agents at any time during such common service as

officer, director or managing agent collectively served as registered agents for more than fifty entities, whether domestic or foreign.

(g) Every limited partnership formed under the laws of the State of Delaware or qualified to do business in the State of Delaware shall provide to its registered agent and update from time to time as necessary the name, business address and business telephone number of a natural person who is a partner, officer, employee or designated agent of the limited partnership, who is then authorized to receive communications from the registered agent. Such person shall be deemed the communications contact for the limited partnership. Every registered agent shall retain (in paper or electronic form) the above information concerning the current communications contact for each limited partnership and each foreign limited partnership for which he, she, or it serves as registered agent. If the limited partnership fails to provide the registered agent with a current communications contact, the registered agent may resign as the registered agent for such limited partnership pursuant to this Section.

(h) The Secretary of State is authorized to issue such rules and regulations as may be necessary or appropriate to carry out the enforcement of subsections (e), (f) and (g) of this Section, and to take actions reasonable and necessary to assure registered agents' compliance with subsections (e), (f) and (g). Such actions may include refusal to file documents submitted by a registered agent.

(i) Upon application of the Secretary of State, the Court of Chancery may enjoin any person or entity from serving as a registered agent or as an officer, director or managing agent of a registered agent.

(1) Upon the filing of a complaint by the Secretary of State pursuant to this Section, the Court may make such orders respecting such proceeding as it deems appropriate, and may enter such orders granting interim or final relief as it deems proper under the circumstances.

(2) Any one or more of the following grounds shall be a sufficient basis to grant an injunction pursuant to this Section:

a. With respect to any registered agent who at any time within one (1) year immediately prior to the filing of the Secretary of State's complaint is a Commercial Registered Agent, failure after notice and warning to comply with the qualifications set forth in subsection (e) and/or the requirements of subsections (f) or (g) above;

b. The person serving as a registered agent, or any person who is an officer, director or managing agent of an entity registered agent, has been convicted of a felony or any crime which includes an element of dishonesty or fraud or involves moral turpitude; or

c. The registered agent has engaged in conduct in connection with acting as a registered agent that is intended to or likely to deceive or defraud the public.

(3) With respect to any order the Court enters pursuant to this Section with respect to an entity that has acted as a registered agent, the Court may also

direct such order to any person who has served as an officer, director or managing agent of such registered agent. Any person who, on or after January 1, 2007, serves as an officer, director or managing agent of an entity acting as a registered agent in the State of Delaware shall be deemed thereby to have consented to the appointment of such registered agent as agent upon whom service of process may be made in any action brought pursuant to this Section, and service as an officer, director or managing agent of an entity acting as a registered agent in the State of Delaware shall be a signification of the consent of such person that any process when so served shall be of the same legal force and validity as if served upon such person within the State of Delaware, and such appointment of the registered agent shall be irrevocable.

(4) Upon the entry of an order by the Court enjoining any person or entity from acting as a registered agent, the Secretary of State shall mail or deliver notice of such order to each general partner of each affected limited partnership at the address of such general partner specified in the affected limited partnership's certificate of limited partnership. If such a limited partnership is a domestic limited partnership and fails to obtain and designate a new registered agent within thirty (30) days after such notice is given, the certificate of limited partnership of such limited partnership shall be cancelled. If such a limited partnership is a foreign limited partnership and fails to obtain and designate a new registered agent within thirty (30) days after such notice is given, such foreign limited partnership shall not be permitted to do business in the State of Delaware and its registration shall be cancelled. If the Court enjoins a person or entity from acting as a registered agent as provided in this Section and no new registered agent shall have been obtained and designated in the time and manner aforesaid by an affected limited partnership, service of legal process against the limited partnership for which the registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 17-105 or § 17-911 of this Title. The Court of Chancery may, upon application of the Secretary of State on notice to the former registered agent, enter such orders as it deems appropriate to give the Secretary of State access to information in the former registered agent's possession in order to facilitate communication with the limited partnerships the former registered agent served.

(j) The Secretary of State is authorized to make a list of registered agents available to the public, and to establish such qualifications and issue such rules and regulations with respect to such listing as the Secretary of State deems necessary or appropriate.

§17-105. SERVICE OF PROCESS ON DOMESTIC LIMITED PARTNERSHIPS.

(a) Service of legal process upon any domestic limited partnership shall be made by delivering a copy personally to any managing or general agent or

general partner of the limited partnership in the State of Delaware or the registered agent of the limited partnership in the State of Delaware, or by leaving it at the dwelling house or usual place of abode in the State of Delaware of any such managing or general agent, general partner or registered agent (if the registered agent be an individual), or at the registered office or other place of business of the limited partnership in the State of Delaware. If the registered agent be a corporation, service of process upon it as such may be made by serving, in the State of Delaware, a copy thereof on the president, vice-president, secretary, assistant secretary or any director of the corporate registered agent. Service by copy left at the dwelling house or usual place of abode of an officer, managing or general agent, general partner or registered agent, or at the registered office or other place of business of the limited partnership in the State of Delaware, to be effective, must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in his return thereto. Process returnable forthwith must be delivered personally to the officer, managing or general agent, general partner or registered agent.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the limited partnership upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) hereof. In the event that service is effected through the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify the limited partnership by letter, certified mail, return receipt requested, directed to the limited partnership at the address of a general partner as it appears on the records relating to such limited partnership on file with the Secretary of State or, if no such address appears, at its last registered office. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection, and to pay the Secretary of State the sum of $50 for the use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon him, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.

§17-106. NATURE OF BUSINESS PERMITTED; POWERS.

(a) A limited partnership may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of banking as defined in § 126 of Title 8.

(b) A limited partnership shall possess and may exercise all the powers and privileges granted by this chapter or by any other law or by its partnership agreement, together with any powers incidental thereto, including such powers and privileges as are necessary or convenient to the conduct, promotion or attainment of the business, purposes or activities of the limited partnership.

(c) Notwithstanding any provision of this chapter to the contrary, without limiting the general powers enumerated in subsection (b) above, a limited partnership shall, subject to such standards and restrictions, if any, as are set forth in its partnership agreement, have the power and authority to make contracts of guaranty and suretyship, and enter into interest rate, basis, currency, hedge or other swap agreements, or cap, floor, put, call, option, exchange or collar agreements, derivative agreements or other agreements similar to any of the foregoing.

§17-107. BUSINESS TRANSACTIONS OF PARTNER WITH THE PARTNERSHIP.

Except as provided in the partnership agreement, a partner may lend money to, borrow money from, act as a surety, guarantor or endorser for, guarantee or assume one or more specific obligations of, provide collateral for, and transact other business with, the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

§17-108. INDEMNIFICATION.

Subject to such standards and restrictions, if any, as are set forth in its partnership agreement, a limited partnership may, and shall have the power to, indemnify and hold harmless any partner or other person from and against any and all claims and demands whatsoever.

§17-109. SERVICE OF PROCESS ON PARTNERS AND LIQUIDATING TRUSTEES.

(a) A general partner or a liquidating trustee of a limited partnership may be served with process in the manner prescribed in this section in all civil actions or proceedings brought in the State of Delaware involving or relating to the business of the limited partnership or a violation by the general partner or the

liquidating trustee of a duty to the limited partnership, or any partner of the limited partnership, whether or not the general partner or the liquidating trustee is a general partner or a liquidating trustee at the time suit is commenced. The filing in the Office of the Secretary of State of a certificate of limited partnership executed, and the execution thereof, by a resident or nonresident of the State of Delaware which names such person as a general partner or a liquidating trustee of a limited partnership, or the acceptance by a general partner or a liquidating trustee after August 1, 1999, of election or appointment as a general partner or a liquidating trustee of a limited partnership, or a general partner or a liquidating trustee of a limited partnership serving in such capacity after August 1, 1999, constitute such person's consent to the appointment of the registered agent of the limited partnership (or, if there is none, the Secretary of State) as such person's agent upon whom service of process may be made as provided in this section. Such execution and filing, or such acceptance or service, shall signify the consent of such general partner or liquidating trustee that any process when so served shall be of the same legal force and validity as if served upon such general partner or liquidating trustee within the State of Delaware and such appointment of the registered agent (or, if there is none, the Secretary of State) shall be irrevocable.

(b) Service of process shall be effected by serving the registered agent (or, if there is none, the Secretary of State) with 1 copy of such process in the manner provided by law for service of writs of summons. In the event service is made under this subsection upon the Secretary of State, the plaintiff shall pay to the Secretary of State the sum of $50 for the use of the State of Delaware, which sum shall be taxed as part of the costs of the proceeding if the plaintiff shall prevail therein. In addition, the Prothonotary or the Register in Chancery of the court in which the civil action or proceeding is pending shall, within 7 days of such service, deposit in the United States mails, by registered mail, postage prepaid, true and attested copies of the process, together with a statement that service is being made pursuant to this section, addressed to such general partner or liquidating trustee at his address as the same appears in the certificate of limited partnership of the limited partnership, or, if no such address appears, at his address last known to the party desiring to make such service.

(c) In any action in which any such general partner or liquidating trustee has been served with process as hereinabove provided, the time in which a defendant shall be required to appear and file a responsive pleading shall be computed from the date of mailing by the Prothonotary or the Register in Chancery as provided in subsection (b) of this section; however, the court in which such action has been commenced may order such continuance or continuances as may be necessary to afford such general partner or liquidating trustee reasonable opportunity to defend the action.

(d) In a written partnership agreement or other writing, a partner may consent to be subject to the nonexclusive jurisdiction of the courts of, or arbitration in, a specified jurisdiction, or the exclusive jurisdiction of the courts

of the State of Delaware, or the exclusivity of arbitration in a specified jurisdiction or the State of Delaware, and to be served with legal process in the manner prescribed in such partnership agreement or other writing. Except by agreeing to arbitrate any arbitrable matter in a specified jurisdiction or in the State of Delaware, a limited partner may not waive its right to maintain a legal action or proceeding in the courts of the State of Delaware with respect to matters relating to the organization or internal affairs of a limited partnership.

(e) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

(f) The Court of Chancery and the Superior Court may make all necessary rules respecting the form of process, the manner of issuance and return thereof and such other rules which may be necessary to implement this section and are not inconsistent with this section.

§17-110. CONTESTED MATTERS RELATING TO GENERAL PARTNERS; CONTESTED VOTES.

(a) Upon application of any partner, the Court of Chancery may hear and determine the validity of any admission, election, appointment or removal or other withdrawal of a general partner of a limited partnership, and the right of any person to become or continue to be a general partner of a limited partnership, and, in case the right to serve as a general partner is claimed by more than 1 person, may determine the person or persons entitled to serve as general partners; and to that end make such order or decree in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the limited partnership relating to the issue. In any such application, the limited partnership shall be named as a party, and service of copies of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership and upon the person or persons whose right to serve as a general partner is contested and upon the person or persons, if any, claiming to be a general partner or claiming the right to be a general partner; and the registered agent shall forward immediately a copy of the application to the limited partnership and to the person or persons whose right to serve as a general partner is contested and to the person or persons, if any, claiming to be a general partner or the right to be a general partner, in a postpaid, sealed, registered letter addressed to such limited partnership and such person or persons at their post-office addresses last known to the registered agent or furnished to the registered agent by the applicant partner. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(b) Upon application of any partner, the Court of Chancery may hear and determine the result of any vote of partners upon matters as to which the partners of the limited partnership, or any class or group of partners, have the right to vote pursuant to the partnership agreement or other agreement or this chapter (other than the admission, election, appointment or removal or other withdrawal of general partners). In any such application, the limited partnership shall be named as a party, and service of the application upon the registered agent of the limited partnership shall be deemed to be service upon the limited partnership, and no other party need be joined in order for the Court to adjudicate the result of the vote. The Court may make such order respecting further or other notice of such application as it deems proper under the circumstances.

(c) Nothing herein contained limits or affects the right to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the right otherwise existing of service of legal process upon nonresidents.

§17-111. INTERPRETATION AND ENFORCEMENT OF PARTNERSHIP AGREEMENT.

Any action to interpret, apply or enforce the provisions of a partnership agreement, or the duties, obligations or liabilities of a limited partnership to the partners of the limited partnership, or the duties, obligations or liabilities among partners or of partners to the limited partnership, or the rights or powers of, or restrictions on, the limited partnership or partners, may be brought in the Court of Chancery.

SUBCHAPTER II—FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

§17-201. CERTIFICATE OF LIMITED PARTNERSHIP.

(a) In order to form a limited partnership 1 or more persons (but not less than all of the general partners) must execute a certificate of limited partnership. The certificate of limited partnership shall be filed in the Office of the Secretary of State and set forth:

(1) The name of the limited partnership;

(2) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by § 17-104 of this title;

(3) The name and the business, residence or mailing address of each general partner; and

(4) Any other matters the partners determine to include therein.

(b) A limited partnership is formed at the time of the filing of the initial certificate of limited partnership in the Office of the Secretary of State or at any later date or time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section. A limited partnership formed under this chapter shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited partnership's certificate of limited partnership.

(c) The filing of the certificate of limited partnership in the Office of the Secretary of State shall make it unnecessary to file any other documents under Chapter 31 of this title.

(d) A partnership agreement shall be entered into or otherwise existing either before, after or at the time of the filing of a certificate of limited partnership and, whether entered into or otherwise existing before, after or at the time of such filing, may be made effective as of the formation of the limited partnership or at such other time or date as provided in or reflected by the partnership agreement.

§17-202. AMENDMENT TO CERTIFICATE.

(a) A certificate of limited partnership is amended by filing a certificate of amendment thereto in the Office of the Secretary of State. The certificate of amendment shall set forth:

(1) The name of the limited partnership; and

(2) The amendment to the certificate.

(b) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made, or that any matter described has changed making the certificate false in any material respect, shall promptly amend the certificate.

(c) Notwithstanding the requirements of subsection (b) of this section, no later than 90 days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed by a general partner:

(1) The admission of a new general partner;

(2) The withdrawal of a general partner; or

(3) A change in the name of the limited partnership, or, except as provided in § 17-104(b) and (c) of this title, a change in the address of the registered office or a change in the name or address of the registered agent of the limited partnership.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(e) Unless otherwise provided in this chapter or in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the Secretary of State.

(f) If after the dissolution of a limited partnership but prior to the filing of a certificate of cancellation as provided in § 17-203 of this title:

(1) A certificate of limited partnership has been amended to reflect the withdrawal of all general partners of a limited partnership, the certificate of limited partnership shall be amended to set forth the name and the business, residence or mailing address of each person winding up the limited partnership's affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment; or

(2) A person shown on a certificate of limited partnership as a general partner is not winding up the limited partnership's affairs, the certificate of limited partnership shall be amended to add the name and the business, residence or mailing address of each person winding up the limited partnership's affairs, each of whom shall execute and file such certificate of amendment, and each of whom shall not be subject to liability as a general partner by reason of such amendment. A person shown on a certificate of limited partnership as a general partner who is not winding up a limited partnership's affairs need not execute a certificate of amendment which is being executed and filed as required under this subsection.

§17-203. CANCELLATION OF CERTIFICATE.

A certificate of limited partnership shall be cancelled upon the dissolution and the completion of winding up of the limited partnership, or as provided in § 17-104(d) or § 17-104(i)(4) or § 17-1110 of this title, or upon the filing of a certificate of merger or consolidation if the limited partnership is not the surviving or resulting entity in a merger or consolidation, or upon the future effective date or time of a certificate of merger or consolidation if the limited partnership is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of transfer or upon the future effective date or time of a certificate of transfer, or upon the filing of a certificate of conversion to non-Delaware entity or upon the future effective date or time of a certificate of conversion to non-Delaware entity. A certificate of cancellation shall be filed in the Office of the Secretary of State to accomplish the cancellation of a certificate of limited partnership upon the dissolution and the completion of winding up of a limited partnership and shall set forth:

(1) The name of the limited partnership;

(2) The date of filing of its certificate of limited partnership;

(3) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and

(4) Any other information the person filing the certificate of cancellation determines.

The Secretary of State shall not issue a certificate of good standing with respect to a limited partnership if its certificate of limited partnership is cancelled.

§17-204. EXECUTION.

(a) Each certificate required by this subchapter to be filed in the Office of the Secretary of State shall be executed in the following manner:

(1) An initial certificate of limited partnership, a certificate of limited partnership domestication, a certificate of conversion to limited partnership, a certificate of conversion to a non-Delaware entity, a certificate of transfer and a certificate of transfer and domestic continuance must be signed by all general partners **or, in the case of a certificate of limited partnership domestication or certificate of conversion to limited partnership, by any person authorized to execute such certificate on behalf of the non-United States entity or other entity, respectively**;

(2) A certificate of amendment or a certificate of correction must be signed by at least 1 general partner and by each other general partner designated in the certificate of amendment or a certificate of correction as a new general partner, but if the certificate of amendment or a certificate of correction reflects the withdrawal of a general partner as a general partner, it need not be signed by that former general partner;

(3) A certificate of cancellation must be signed by all general partners or, if the general partners are not winding up the limited partnership's affairs, then by all liquidating trustees, provided, however, that if the limited partners are winding up the limited partnership's affairs, a certificate of cancellation shall be signed by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate;

(4) If a domestic limited partnership is filing a certificate of merger or consolidation, the certificate of merger or consolidation must be signed by at least 1 general partner of the domestic limited partnership, or if the certificate of merger or consolidation is being filed by another business entity (as defined in § 17-211(a) of this title), the certificate of merger or consolidation must be signed by a person authorized by such other business entity;

(5) A certificate of revival must be signed by at least 1 general partner; and

(6) A certificate of termination of a certificate with a future effective date or time or a certificate of amendment of a certificate with a future effective date or time being filed in accordance with § 17-206(c) of this chapter shall be signed in the same manner as the certificate with a future effective date or time being amended or terminated is required to be signed under this chapter.

(b) Unless otherwise provided in the partnership agreement, any person may sign any certificate or amendment thereof or enter into a partnership agreement or amendment thereof by an agent, including an attorney-in-fact. An authorization, including a power of attorney, to sign any certificate or amendment thereof or to enter into a partnership agreement or amendment thereof need not be in writing, need not be sworn to, verified or acknowledged, and need not be filed in the Office of the Secretary of State, but if in writing, must be retained by a general partner.

(c) The execution of a certificate by a **[**general partner**]** **person who is authorized by this Chapter to execute such certificate** constitutes an oath or affirmation, under the penalties of perjury in the third degree, that, to the best of **[**the general partner's**]** **such person's** knowledge and belief, the facts stated therein are true.

§17-205. EXECUTION, AMENDMENT OR CANCELLATION BY JUDICIAL ORDER.

(a) If a person required by § 17-204 of this title to execute any certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal, may petition the Court of Chancery to direct the execution of the certificate. If the Court finds that the execution of the certificate is proper and that any person so designated has failed or refused to execute the certificate, it shall order the Secretary of State to record an appropriate certificate.

(b) If a person required to execute a partnership agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the Court of Chancery to direct the execution of the partnership agreement or amendment thereof. If the Court finds that the partnership agreement or amendment thereof should be executed and that any person so designated has failed or refused to do so, it shall enter an order granting appropriate relief.

§17-206. FILING.

(a) The signed copy of the certificate of limited partnership and of any certificates of amendment, correction, amendment of a certificate with a future effective date or time, termination of a certificate with a future effective date or time or cancellation (or of any judicial decree of amendment or cancellation), and of any certificate of merger or consolidation, any restated certificate, any corrected certificate, any certificate of conversion to limited partnership, any certificate of conversion to a non-Delaware entity, any certificate of transfer, any certificate of transfer and domestic continuance, any certificate of limited partnership domestication, and any certificate of revival shall be delivered to the Secretary of State. A person who executes a certificate as an agent or fiduciary

need not exhibit evidence of his authority as a prerequisite to filing. Any signature on any certificate authorized to be filed with the Secretary of State under any provision of this chapter may be a facsimile, a conformed signature or an electronically transmitted signature. Upon delivery of any certificate, the Secretary of State shall record the date and time of its delivery. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law he shall:

(1) Certify that the certificate of limited partnership, the certificate of amendment, the certificate of correction, the certificate of amendment of a certificate with a future effective date or time, the certificate of termination of a certificate with a future effective date or time, the certificate of cancellation (or of any judicial decree of amendment or cancellation), the certificate of merger or consolidation, restated certificate, the corrected certificate, the certificate of conversion to limited partnership, the certificate of conversion to a non-Delaware entity, the certificate of transfer, the certificate of transfer and domestic continuance, the certificate of limited partnership domestication or certificate of revival has been filed in his office by endorsing upon the signed certificate the word "Filed", and the date and time of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud. Except as provided in subsection (a)(5) or (a)(6) of this section, such date and time of filing of a certificate shall be the date and time of delivery of the certificate;

(2) File and index the endorsed certificate;

(3) Prepare and return to the person who filed it or his representative a copy of the signed certificate, similarly endorsed, and shall certify such copy as a true copy of the signed certificate; and

(4) Cause to be entered such information from the certificate as the Secretary of State deems appropriate into the Delaware Corporation Information System or any system which is a successor thereto in the office of the Secretary of State, and such information and a copy of such certificate shall be permanently maintained as a public record on a suitable medium. The Secretary of State is authorized to grant direct access to such system to registered agents subject to the execution of an operating agreement between the Secretary of State and such registered agent. Any registered agent granted such access shall demonstrate the existence of policies to ensure that information entered into the system accurately reflects the content of certificates in the possession of the registered agent at the time of entry.

(5) Upon request made upon or prior to delivery, the Secretary of State may, to the extent deemed practicable, establish as the date and time of filing of a certificate a date and time after its delivery. If the Secretary of State refuses to file any certificate due to an error, omission or other imperfection, the Secretary of State may hold such certificate in suspension, and in such event, upon delivery of a replacement certificate in proper form for filing and tender of the required fees within five business days after notice of such suspension is given to the filer,

the Secretary of State shall establish as the date and time of filing of such certificate the date and time that would have been the date and time of filing of the rejected certificate had it been accepted for filing. The Secretary of State shall not issue a certificate of good standing with respect to any limited partnership with a certificate held in suspension pursuant to this subsection. The Secretary of State may establish as the date and time of filing of a certificate the date and time at which information from such certificate is entered pursuant to subsection (a)(4) of this section if such certificate is delivered on the same date and within four hours after such information is entered.

(6) If:

(A) together with the actual delivery of a certificate and tender of the required fees, there is delivered to the Secretary of State a separate affidavit (which in its heading shall be designated as an affidavit of extraordinary condition) attesting, on the basis of personal knowledge of the affiant or a reliable source of knowledge identified in the affidavit, that an earlier effort to deliver such certificate and tender such fees was made in good faith, specifying the nature, date and time of such good faith effort and requesting that the Secretary of State establish such date and time as the date and time of filing of such certificate; or

(B) upon the actual delivery of a certificate and tender of the required fees, the Secretary of State in his or her discretion provides a written waiver of the requirement for such an affidavit stating that it appears to the Secretary of State that an earlier effort to deliver such certificate and tender such fees was made in good faith and specifying the date and time of such effort; and

(C) the Secretary of State determines that an extraordinary condition existed at such date and time, that such earlier effort was unsuccessful as a result of the existence of such extraordinary condition, and that such actual delivery and tender were made within a reasonable period (not to exceed two business days) after the cessation of such extraordinary condition, then the Secretary of State may establish such date and time as the date and time of filing of such certificate. No fee shall be paid to the Secretary of State for receiving an affidavit of extraordinary condition. For purposes of this subsection, an extraordinary condition means: any emergency resulting from an attack on, invasion or occupation by foreign military forces of, or disaster, catastrophe, war or other armed conflict, revolution or insurrection, or rioting or civil commotion in, the United States or a locality in which the Secretary of State conducts its business or in which the good faith effort to deliver the certificate and tender the required fees is made, or the immediate threat of any of the foregoing; or any malfunction or outage of the electrical or telephone service to the Secretary of State's office, or weather or other condition in or about a locality in which the Secretary of State conducts its business, as a result of which the Secretary of State's office is not open for the purpose of the filing of certificates under this chapter or such filing cannot be effected without extraordinary effort. The Secretary of State may

require such proof as it deems necessary to make the determination required under clause (C) of this subsection, and any such determination shall be conclusive in the absence of actual fraud. If the Secretary of State establishes the date and time of filing of a certificate pursuant to this subsection, the date and time of delivery of the affidavit of extraordinary condition or the date and time of the Secretary of State's written waiver of such affidavit shall be endorsed on such affidavit or waiver and such affidavit or waiver, so endorsed, shall be attached to the filed certificate to which it relates. Such filed certificate shall be effective as of the date and time established as the date and time of filing by the Secretary of State pursuant to this subsection, except as to those persons who are substantially and adversely affected by such establishment and, as to those persons, the certificate shall be effective from the date and time endorsed on the affidavit of extraordinary condition or written waiver attached thereto.

(b) Upon the filing of a certificate of amendment (or judicial decree of amendment), certificate of correction, corrected certificate or restated certificate in the Office of the Secretary of State, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of limited partnership shall be amended, corrected or restated as set forth therein. Upon the filing of a certificate of cancellation (or a judicial decree thereof), or a certificate of merger or consolidation which acts as a certificate of cancellation, or a certificate of transfer, or a certificate of conversion to a non-Delaware entity, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of a certificate of merger or consolidation which acts as a certificate of cancellation, or a certificate of transfer, or a certificate of conversion to a non-Delaware entity, as provided for therein, or as specified in § 17-104(d), § 17-104(i)(4) or § 17-1110(a) of this title, the certificate of limited partnership is cancelled. Upon the filing of a certificate of limited partnership domestication, or upon the future effective date or time of a certificate of limited partnership domestication, the entity filing the certificate of limited partnership domestication is domesticated as a limited partnership with the effect provided in § 17-215 of this title. Upon the filing of a certificate of conversion to limited partnership, or upon the future effective date or time of a certificate of conversion to limited partnership, the entity filing the certificate of conversion to limited partnership is converted to a limited partnership with the effect provided in § 17-217 of this title. Upon the filing of a certificate of revival, the limited partnership shall be revived with the effect provided in § 17-1111 of this title. Upon the filing of a certificate of transfer and domestic continuance, or upon the future effective date or time of a certificate of transfer and domestic continuance, as provided for therein, the limited partnership filing the certificate of transfer and domestic continuance shall continue to exist as a limited partnership of the State of Delaware with the effect provided in Section 17-216 of this title.

(c) If any certificate filed in accordance with this chapter provides for a future effective date or time and if, prior to such future effective date or time set forth in such certificate, the transaction is terminated or its terms are amended to change the future effective date or time or any other matter described in such certificate so as to make such certificate false or inaccurate in any respect, such certificate shall, prior to the future effective date or time set forth in such certificate, be terminated or amended by the filing of a certificate of termination or certificate of amendment of such certificate, executed in accordance with § 17-204 of this chapter, which shall identify the certificate which has been terminated or amended and shall state that the certificate has been terminated or the manner in which it has been amended. Upon the filing of a certificate of amendment of a certificate with a future effective date or time, the certificate identified in such certificate of amendment is amended. Upon the filing of a certificate of termination of a certificate with a future effective date or time, the certificate identified in such certificate of termination is terminated.

(d) A fee as set forth in § 17-1107(a)(3) of this title shall be paid at the time of the filing of a certificate of limited partnership, a certificate of amendment, a certificate of correction, a certificate of amendment of a certificate with a future effective date or time, a certificate of termination of a certificate with a future effective date or time, a certificate of cancellation, a certificate of merger or consolidation, a restated certificate, a corrected certificate, a certificate of conversion to limited partnership, a certificate of conversion to a non-Delaware entity, a certificate of transfer, a certificate of transfer and domestic continuance, a certificate of limited partnership domestication or a certificate of revival.

(e) A fee as set forth in § 17-1107(a)(4) of this title shall be paid for a certified copy of any paper on file as provided for by this chapter, and a fee as set forth in § 17-1107(a)(5) of this title shall be paid for each page copied.

§17-207. LIABILITY FOR FALSE STATEMENT.

(a) If any certificate of limited partnership or certificate of amendment, correction, revival or cancellation or certificate of conversion to limited partnership, or certificate of conversion to a non-Delaware entity, certificate of transfer, certificate of transfer and domestic continuance or certificate of limited partnership domestication contains a materially false statement, one who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

(1) Any general partner who executes the certificate and knew or should have known the statement to be false in any material respect at the time the certificate was executed; and

(2) Any general partner who thereafter knows that any arrangement or other fact described in the certificate is false in any material respect or has changed, making the statement false in any material respect, if that general

partner had sufficient time to amend, correct or cancel the certificate, or to file a petition for its amendment, correction or cancellation, before the statement was reasonably relied upon.

(b) No general partner shall have any liability for failing to cause the amendment, correction or cancellation of a certificate to be filed or failing to file a petition for its amendment, correction or cancellation pursuant to subsection (a) of this section if the certificate of amendment, certificate of correction, certificate of cancellation or petition is filed within 90 days of when that general partner knew or should have known to the extent provided in subsection (a) of this section that the statement in the certificate was false in any material respect.

§17-208. NOTICE.

The fact that a certificate of limited partnership is on file in the Office of the Secretary of State is notice that the partnership is a limited partnership and is notice of all other facts set forth therein which are required to be set forth in a certificate of limited partnership by § 17-201(a)(1) through (3) and by § 17-202(f) of this title and which are permitted to be set forth in a certificate of limited partnership by § 17-218(b) of this title.

§17-209. DELIVERY OF CERTIFICATES TO LIMITED PARTNERS.

Upon the return by the Secretary of State pursuant to § 17-206 of this title of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate to each limited partner if the partnership agreement so requires.

§17-210. RESTATED CERTIFICATE.

(a) A limited partnership may, whenever desired, integrate into a single instrument all of the provisions of its certificate of limited partnership which are then in effect and operative as a result of there having theretofore been filed with the Secretary of State 1 or more certificates or other instruments pursuant to any of the sections referred to in this subchapter and it may at the same time also further amend its certificate of limited partnership by adopting a restated certificate of limited partnership.

(b) If the restated certificate of limited partnership merely restates and integrates but does not further amend the initial certificate of limited partnership, as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the sections in this subchapter, it shall be specifically designated in its heading as a "Restated Certificate of Limited Partnership" together with such other words as the partnership may deem appropriate and shall be executed by a general partner and filed as provided in § 17-206 of this title in

the Office of the Secretary of State. If the restated certificate restates and integrates and also further amends in any respect the certificate of limited partnership, as theretofore amended or supplemented, it shall be specifically designated in its heading as an "Amended and Restated Certificate of Limited Partnership" together with such other words as the partnership may deem appropriate and shall be executed by at least 1 general partner and by each other general partner designated in the restated certificate of limited partnership as a new general partner, but if the restated certificate reflects the withdrawal of a general partner as a general partner, such restated certificate of limited partnership need not be signed by that former general partner, and filed as provided in § 17-206 of this title in the Office of the Secretary of State.

(c) A restated certificate of limited partnership shall state, either in its heading or in an introductory paragraph, the limited partnership's present name, and, if it has been changed, the name under which it was originally filed, and the date of filing of its original certificate of limited partnership with the Secretary of State, and the future effective date or time (which shall be a date or time certain) of the restated certificate if it is not to be effective upon the filing of the restated certificate. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If the restated certificate only restates and integrates and does not further amend the limited partnership's certificate of limited partnership as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(d) Upon the filing of the restated certificate of limited partnership with the Secretary of State, or upon the future effective date or time of a restated certificate of limited partnership as provided for therein, the initial certificate of limited partnership, as theretofore amended or supplemented, shall be superseded; thenceforth, the restated certificate of limited partnership, including any further amendment or changes made thereby, shall be the certificate of limited partnership of the limited partnership, but the original effective date of formation shall remain unchanged.

(e) Any amendment or change effected in connection with the restatement and integration of the certificate of limited partnership shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

§17-211. MERGER AND CONSOLIDATION.

(a) As used in this section, "other business entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, a limited liability company, or an unincorporated business or entity, including a partnership (whether general (including a limited liability

partnership) or limited (including a foreign limited liability limited partnership), but excluding a domestic limited partnership).

(b) Pursuant to an agreement of merger or consolidation, 1 or more domestic limited partnerships may merge or consolidate with or into 1 or more domestic limited partnerships or 1 or more other business entities formed or organized under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign jurisdiction, or any combination thereof, with such domestic limited partnership or other business entity as the agreement shall provide being the surviving or resulting domestic limited partnership or other business entity. Unless otherwise provided in the partnership agreement, a merger or consolidation shall be approved by each domestic limited partnership which is to merge or consolidate (1) by all general partners, and (2) by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a limited partnership or other business entity which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited partnership or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited partnership or other business entity which is not the surviving or resulting limited partnership or other business entity in the merger or consolidation or may be cancelled. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(c) If a domestic limited partnership is merging or consolidating under this section, the domestic limited partnership or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by at least one general partner on behalf of the domestic limited partnership when it is the surviving or resulting entity in the Office of the Secretary of State. The certificate of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each of the domestic limited partnerships and other business entities which is to merge or consolidate;

(2) That an agreement of merger or consolidation has been approved and executed by each of the domestic limited partnerships and other business entities which is to merge or consolidate;

(3) The name of the surviving or resulting domestic limited partnership or other business entity;

(4) In the case of a merger in which a domestic limited partnership is the surviving entity, such amendments, if any, to the certificate of limited partnership of the surviving domestic limited partnership (and in the case of a surviving domestic limited partnership that is a limited liability limited partnership, to the statement of qualification of such surviving domestic limited partnership filed under Section 15-1001 of the Delaware Revised Uniform Partnership Act) to change its name as are desired to be effected by the merger;

(5) The future effective date or time (which shall be a date or time certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(6) That the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited partnership or other business entity, and shall state the address thereof;

(7) That a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge or consolidate; and

(8) If the surviving or resulting entity is not a domestic limited partnership (including a limited liability limited partnership), or a corporation, limited liability company, partnership (including a limited liability partnership) or statutory trust organized under the laws of the State of Delaware, a statement that such surviving or resulting other business entity agrees that it may be served with process in the State of Delaware in any action, suit or proceeding for the enforcement of any obligation of any domestic limited partnership which is to merge or consolidate, irrevocably appointing the Secretary of State as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in § 17-911(c) of this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify such surviving or resulting other business entity at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 17-911(c) of this title.

(d) Any failure to file a certificate of merger or consolidation in connection with a merger or consolidation pursuant to this section which was effective prior to September 1, 1988, shall not affect the validity or effectiveness of any such merger or consolidation.

(e) Unless a future effective date or time is provided in a certificate of merger or consolidation, in which event a merger or consolidation shall be effective at any such future effective date or time, a merger or consolidation shall be effective upon the filing in the Office of the Secretary of State of a certificate of merger or consolidation.

(f) A certificate of merger or consolidation shall act as a certificate of cancellation for a domestic limited partnership which is not the surviving or resulting entity in the merger or consolidation. A certificate of merger that sets forth any amendment in accordance with subsection (c)(4) of this section shall be deemed to be an amendment to the certificate of limited partnership (and if applicable to the statement of qualification) of the limited partnership, and the limited partnership shall not be required to take any further action to amend its certificate of limited partnership under § 17-202 of this title (or if applicable its statement of qualification under §15-105 of this title) with respect to such amendments set forth in the certificate of merger. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(g) An agreement of merger or consolidation approved in accordance with subsection (b) of this section may (1) effect any amendment to the partnership agreement or (2) effect the adoption of a new partnership agreement for a limited partnership if it is the surviving or resulting limited partnership in the merger or consolidation. Any amendment to a partnership agreement or adoption of a new partnership agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a partnership agreement or other agreement or as otherwise permitted by law, including that the partnership agreement of any constituent limited partnership to the merger or consolidation (including a limited partnership formed for the purpose of consummating a merger or consolidation) shall be the partnership agreement of the surviving or resulting limited partnership. Unless otherwise provided in a partnership agreement, a limited partnership whose original certificate of limited partnership was filed with the Secretary of State and effective on or prior to July 31, 2005, shall continue to be governed by this subsection as in effect on July 31, 2005.

(h) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of each of the domestic limited partnerships and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said domestic limited partnerships and other business entities, as well as all other things and causes of action belonging

to each of such domestic limited partnerships and other business entities, shall be vested in the surviving or resulting domestic limited partnership or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited partnership or other business entity as they were of each of the domestic limited partnerships and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the State of Delaware, in any of such domestic limited partnerships and other business entities, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of said domestic limited partnerships and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said domestic limited partnerships and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited partnership or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a domestic limited partnership, including a domestic limited partnership which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited partnership to wind up its affairs under § 17-803 of this title or pay its liabilities and distribute its assets under § 17-804 of this title, and the merger or consolidation shall not constitute a dissolution of such limited partnership.

(i) Except as provided by agreement with a person to whom a general partner of a limited partnership is obligated, a merger or consolidation of a limited partnership that has become effective shall not affect any obligation or liability existing at the time of such merger or consolidation of a general partner of a limited partnership which is merging or consolidating.

(j) If a limited partnership is a constituent party to a merger or consolidation that shall have become effective, but the limited partnership is not the surviving or resulting entity of the merger or consolidation, then a judgment creditor of a general partner of such limited partnership may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the surviving or resulting entity of the merger or consolidation unless:

(1) A judgment based on the same claim has been obtained against the surviving or resulting entity of the merger or consolidation and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The surviving or resulting entity of the merger or consolidation is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust the assets of the limited partnership that was not the surviving or resulting entity of the merger or consolidation;

(4) The general partner has agreed that the creditor need not exhaust the assets of the surviving or resulting entity of the merger or consolidation;

(5) A Court grants permission to the judgment creditor to levy execution against the assets of the general partner based on a finding that the assets of the surviving or resulting entity of the merger or consolidation that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the surviving or resulting entity of the merger or consolidation is excessively burdensome, or that the grant of permission is an appropriate exercise of the Court's equitable powers; or

(6) Liability is imposed on the general partner by law or contract independent of the existence of the surviving or resulting entity of the merger or consolidation.

(k) A partnership agreement may provide that a domestic limited partnership shall not have the power to merge or consolidate as set forth in this section.

§17-212. CONTRACTUAL APPRAISAL RIGHTS.

A partnership agreement or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a partnership interest or another interest in a limited partnership shall be available for any class or group or series of partners or partnership interests in connection with any amendment of a partnership agreement, any merger or consolidation in which the limited partnership is a constituent party to the merger or consolidation, any conversion of the limited partnership to another business form, any transfer to or domestication or continuance in any jurisdiction by the limited partnership, or the sale of all or substantially all of the limited partnership's assets. The Court of Chancery shall have jurisdiction to hear and determine any matter relating to any such appraisal rights.

§17-213. CERTIFICATE OF CORRECTION.

(a) Whenever any certificate authorized to be filed with the Office of the Secretary of State under any provision of this chapter has been so filed and is an inaccurate record of the action therein referred to, or was defectively or erroneously executed, such certificate may be corrected by filing with the Office of the Secretary of State a certificate of correction of such certificate. The certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the certificate in corrected form and shall be executed and filed as required by this chapter. The certificate of correction shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction, and as to those persons the certificate of correction shall be effective from the filing date.

(b) In lieu of filing a certificate of correction, a certificate may be corrected by filing with the Secretary of State a corrected certificate which shall be

executed and filed as if the corrected certificate were the certificate being corrected, and a fee equal to the fee payable to the Secretary of State if the certificate being corrected were then being filed shall be paid to and collected by the Secretary of State for the use of the State of Delaware in connection with the filing of the corrected certificate. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth the entire certificate in corrected form. A certificate corrected in accordance with this section shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the certificate as corrected shall be effective from the filing date.

§17-214. LIMITED PARTNERSHIPS AS LIMITED LIABILITY LIMITED PARTNERSHIPS.

(a) A limited partnership may be formed as, or may become, a limited liability limited partnership pursuant to this Section. A limited partnership may become a limited liability limited partnership as permitted by the limited partnership's partnership agreement or, if the limited partnership's partnership agreement does not provide for the limited partnership's becoming a limited liability limited partnership, with the approval (i) by all general partners, and (ii) by the limited partners, or, if there is more than one (1) class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate. To be formed or to become, and to continue as, a limited liability limited partnership, a limited partnership shall, in addition to complying with the requirements of this Chapter:

(1) File a statement of qualification as provided in § 15-1001 of this Title and thereafter an annual report as provided in § 15-1003 of this Title; and

(2) have as the last words or letters of its name the words "Limited Liability Limited Partnership", or the abbreviation "L.L.L.P.", or the designation "LLLP".

(b) In applying the Delaware Revised Uniform Partnership Act to a limited liability limited partnership for purposes of subsections (a) and (c) of this section:

(i) any statement shall be executed by at least one general partner of the limited partnership; and

(ii) all references to partners mean general partners only.

(c) If a limited partnership is a limited liability limited partnership, (i) its partners who are liable for the debts, liabilities and other obligations of the limited partnership shall have the limitation on liability afforded to partners of limited liability partnerships under the Delaware Revised Uniform Partnership

Act and (ii) no limited partner of the limited partnership shall have any liability for the obligations of the limited partnership under § 17-303(a) of this title.

(d) Except as provided in subsections (a), (b) and (c) of this section, a limited liability limited partnership shall be governed by this chapter, including, without limitation, § 17-1105 of this chapter.

(e) Notwithstanding anything in this chapter to the contrary, a limited partnership having, on December 31, 1999, the status of a registered limited liability limited partnership under predecessor law, shall have the status of a limited liability limited partnership under this chapter as of January 1, 2000, and, to the extent such limited partnership has not filed a statement of qualification pursuant to Section 15-1001 of the Delaware Revised Uniform Partnership Act, the latest application or renewal application filed by such limited partnership under such predecessor law shall constitute a statement of qualification filed under Section 15-1001 of the Delaware Revised Uniform Partnership Act.

§17-215. DOMESTICATION OF NON-UNITED STATES ENTITIES.

(a) As used in this section **and in § 17-204**, "non-United States entity" means a foreign limited partnership (other than one formed under the laws of a state) (including a foreign limited liability limited partnership (other than one formed under the laws of a state)), or a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust or any other unincorporated business or entity, including a general partnership (including a limited liability partnership) or a limited liability company, formed, incorporated, created or that otherwise came into being under the laws of any foreign country or other foreign jurisdiction (other than any state).

(b) Any non-United States entity may become domesticated as a limited partnership in the State of Delaware by complying with subsection (g) of this section and filing in the Office of the Secretary of State in accordance with § 17-206 of this title:

(1) A certificate of limited partnership domestication that has been executed in accordance with § 17-204 of this title; and

(2) A certificate of limited partnership that complies with § 17-201 of this title and has been executed in accordance with § 17-204 of this title.

(c) The certificate of limited partnership domestication shall state:

(1) The date on which and jurisdiction where the non-United States entity was first formed, incorporated, created or otherwise came into being;

(2) The name of the non-United States entity immediately prior to the filing of the certificate of limited partnership domestication;

(3) The name of the limited partnership as set forth in the certificate of limited partnership filed in accordance with subsection (b) of this section;

(4) The future effective date or time (which shall be a date or time certain) of the domestication as a limited partnership if it is not to be effective

upon the filing of the certificate of limited partnership domestication and the certificate of limited partnership;

(5) The jurisdiction that constituted the seat, siege social, or principal place of business or central administration of the non-United States entity, or any other equivalent thereto under applicable law, immediately prior to the filing of the certificate of limited partnership domestication; and

(6) That the domestication has been approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the non-United States entity and the conduct of its business or by applicable non-Delaware law, as appropriate.

(d) Upon the filing in the Office of the Secretary of State of the certificate of limited partnership domestication and the certificate of limited partnership or upon the future effective date or time of the certificate of limited partnership domestication and the certificate of limited partnership, the non-United States entity shall be domesticated as a limited partnership in the State of Delaware and the limited partnership shall thereafter be subject to all of the provisions of this chapter, except that notwithstanding § 17-201 of this title, the existence of the limited partnership shall be deemed to have commenced on the date the non-United States entity commenced its existence in the jurisdiction in which the non-United States entity was first formed, incorporated, created or otherwise came into being.

(e) The domestication of any non-United States entity as a limited partnership in the State of Delaware shall not be deemed to affect any obligations or liabilities of the non-United States entity incurred prior to its domestication as a limited partnership in the State of Delaware, or the personal liability of any person therefor.

(f) The filing of a certificate of limited partnership domestication shall not affect the choice of law applicable to the non-United States entity, except that from the effective date or time of the domestication, the law of the State of Delaware, including the provisions of this chapter, shall apply to the non-United States entity to the same extent as if the non-United States entity had been formed as a limited partnership on that date.

(g) Prior to the filing of a certificate of limited partnership domestication with the Office of the Secretary of State, the domestication shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the non-United States entity and the conduct of its business or by applicable non-Delaware law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the domestication; provided that, in any event, such approval shall include the approval of any person who, at the effective date or time of the domestication, shall be a general partner of the limited partnership.

(h) When any domestication shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges

and powers of the non-United States entity that has been domesticated, and all property, real, personal and mixed, and all debts due to such non-United States entity, as well as all other things and causes of action belonging to such non-United States entity, shall remain vested in the domestic limited partnership to which such non-United States entity has been domesticated (and also in the non-United States entity, if and for so long as the non-United States entity continues its existence in the foreign jurisdiction in which it was existing immediately prior to the domestication) and shall be the property of such domestic limited partnership (and also of the non-United States entity, if and for so long as the non-United States entity continues its existence in the foreign jurisdiction in which it was existing immediately prior to the domestication), and the title to any real property vested by deed or otherwise in such non-United States entity shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such non-United States entity shall be preserved unimpaired, and all debts, liabilities and duties of the non-United States entity that has been domesticated shall remain attached to the domestic limited partnership to which such non-United States entity has been domesticated (and also to the non-United States entity, if and for so long as the non-United States entity continues its existence in the foreign jurisdiction in which it was existing immediately prior to the domestication), and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited partnership. The rights, privileges, powers and interests in property of the non-United States entity, as well as the debts, liabilities and duties of the non-United States entity, shall not be deemed, as a consequence of the domestication, to have been transferred to the domestic limited partnership to which such non-United States entity has domesticated for any purpose of the laws of the State of Delaware.

(i) When a non-United States entity has become domesticated as a limited partnership pursuant to this section, for all purposes of the laws of the State of Delaware, the limited partnership shall be deemed to be the same entity as the domesticating non-United States entity and the domestication shall constitute a continuation of the existence of the domesticating non-United States entity in the form of a domestic limited partnership. Unless otherwise agreed, for all purposes of the laws of the State of Delaware, the domesticating non-United States entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the domestication shall not be deemed to constitute a dissolution of such non-United States entity. If, following domestication, a non-United States entity that has become domesticated as a limited partnership continues its existence in the foreign country or other foreign jurisdiction in which it was existing immediately prior to domestication, the limited partnership and such non-United States entity shall, for all purposes of the laws of the State of Delaware, constitute a single entity formed, incorporated, created or otherwise

having come into being, as applicable, and existing under the laws of the State of Delaware and the laws of such foreign country or other foreign jurisdiction.

(j) In connection with a domestication hereunder, rights or securities of, or interests in, the non-United States entity that is to be domesticated as a domestic limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited partnership or other entity or may be cancelled.

§17-216. TRANSFER OR CONTINUANCE OF DOMESTIC LIMITED PARTNERSHIPS.

(a) Upon compliance with the provisions of this section, any limited partnership may transfer to or domesticate or continue in any jurisdiction, other than any state, and, in connection therewith, may elect to continue its existence as a limited partnership in the State of Delaware.

(b) If the partnership agreement specifies the manner of authorizing a transfer or domestication or continuance described in subsection (a) of this section, the transfer or domestication or continuance shall be authorized as specified in the partnership agreement. If the partnership agreement does not specify the manner of authorizing a transfer or domestication or continuance described in subsection (a) of this section and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized in the same manner as is specified in the partnership agreement for authorizing a merger or consolidation that involves the limited partnership as a constituent party to the merger or consolidation. If the partnership agreement does not specify the manner of authorizing a transfer or domestication or continuance described in subsection (a) of this section or a merger or consolidation that involves the limited partnership as a constituent party and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized by the approval by (1) all general partners and (2) the limited partners or, if there is more than 1 class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate. If a transfer or domestication or continuance described in subsection (a) of this section shall be authorized as provided in this subsection (b), a certificate of transfer if the limited partnership's existence as a limited partnership of the State of Delaware is to cease, or a certificate of transfer and domestic continuance if the limited partnership's existence as a limited partnership in the State of Delaware is to continue, executed in accordance with

§ 17-204 of this title, shall be filed in the Office of the Secretary of State in accordance with § 17-206 of this title. The certificate of transfer or the certificate of transfer and domestic continuance shall state:

(1) The name of the limited partnership and, if it has been changed, the name under which its certificate of limited partnership was originally filed;

(2) The date of the filing of its original certificate of limited partnership with the Secretary of State;

(3) The jurisdiction to which the limited partnership shall be transferred or in which it shall be domesticated or continued and the name of the entity or business form formed, incorporated, created or that otherwise comes into being as a consequence of the transfer of the limited partnership to, or its domestication or continuance in, such foreign jurisdiction;

(4) The future effective date or time (which shall be a date or time certain) of the transfer to or domestication or continuance in the jurisdiction specified in subsection (b)(3) of this section if it is not to be effective upon the filing of the certificate of transfer or the certificate of transfer and domestic continuance;

(5) That the transfer or domestication or continuance of the limited partnership has been approved in accordance with the provisions of this section;

(6) In the case of a certificate of transfer, (i) that the existence of the limited partnership as a limited partnership of the State of Delaware shall cease when the certificate of transfer becomes effective and (ii) the agreement of the limited partnership that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the limited partnership arising while it was a limited partnership of the State of Delaware, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding;

(7) The address to which a copy of the process referred to in subsection (b)(6) of this section shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in § 17-911(c) of this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in this subsection and any other address that the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify the limited partnership that has transferred or domesticated or continued out of the State of Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 17-911(c) of this title; and

(8) In the case of a certificate of transfer and domestic continuance, that the limited partnership will continue to exist as a limited partnership of the State of Delaware after the certificate of transfer and domestic continuance becomes effective.

(c) Upon the filing in the Office of the Secretary of State of the certificate of transfer or upon the future effective date or time of the certificate of transfer and payment to the Secretary of State of all fees prescribed in this chapter, the Secretary of State shall certify that the limited partnership has filed all documents and paid all fees required by this chapter, and thereupon the limited partnership shall cease to exist as a limited partnership of the State of Delaware. Such certificate of the Secretary of State shall be prima facie evidence of the transfer or domestication or continuance by such limited partnership out of the State of Delaware.

(d) The transfer or domestication or continuance of a limited partnership out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a limited partnership of the State of Delaware pursuant to a certificate of transfer shall not be deemed to affect any obligations or liabilities of the limited partnership incurred prior to such transfer or domestication or continuance or the personal liability of any person incurred prior to such transfer or domestication or continuance, nor shall it be deemed to affect the choice of law applicable to the limited partnership with respect to matters arising prior to such transfer or domestication or continuance. Unless otherwise agreed, the transfer or domestication or continuance of a limited partnership out of the State of Delaware in accordance with this section shall not require such limited partnership to wind up its affairs under § 17-803 of this title or pay its liabilities and distribute its assets under § 17-804 of this title and shall not be deemed to constitute a dissolution of such limited partnership.

(e) If a limited partnership files a certificate of transfer and domestic continuance, after the time the certificate of transfer and domestic continuance becomes effective, the limited partnership shall continue to exist as a limited partnership of the State of Delaware, and the laws of the State of Delaware, including the provisions of this chapter, shall apply to the limited partnership, to the same extent as prior to such time. So long as a limited partnership continues to exist as a limited partnership of the State of Delaware following the filing of a certificate of transfer and domestic continuance, the continuing domestic limited partnership and the entity or business form formed, incorporated, created or that otherwise came into being as a consequence of the transfer of the limited partnership to, or its domestication or continuance in, a foreign country or other foreign jurisdiction shall, for all purposes of the laws of the State of Delaware, constitute a single entity formed, incorporated, created or otherwise having come into being, as applicable, and existing under the laws of the State of Delaware and the laws of such foreign country or other foreign jurisdiction.

(f) In connection with a transfer or domestication or continuance of a domestic limited partnership to or in another jurisdiction pursuant to subsection (a) of this section, rights or securities of, or interests in, such limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, the entity or business form in which the limited partnership will exist

in such other jurisdiction as a consequence of the transfer or domestication or continuance or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another entity or business form or may be cancelled.

(g) When a limited partnership has transferred or domesticated or continued out of the State of Delaware pursuant to this section, the transferred or domesticated or continued entity or business form shall, for all purposes of the laws of the State of Delaware, be deemed to be the same entity as the limited partnership and shall constitute a continuation of the existence of such limited partnership in the form of the transferred or domesticated or continued entity or business form. When any transfer or domestication or continuance of a limited partnership out of the State of Delaware shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the limited partnership that has transferred or domesticated or continued, and all property, real, personal and mixed, and all debts due to such limited partnership, as well as all other things and causes of action belonging to such limited partnership, shall remain vested in the transferred or domesticated or continued entity or business form (and also in the limited partnership that has transferred, domesticated or continued, if and for so long as such limited partnership continues its existence as a domestic limited partnership) and shall be the property of such transferred or domesticated or continued entity or business form (and also of the limited partnership that has transferred, domesticated or continued, if and for so long as such limited partnership continues its existence as a domestic limited partnership), and the title to any real property vested by deed or otherwise in such limited partnership shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such limited partnership shall be preserved unimpaired, and all debts, liabilities and duties of the limited partnership that has transferred or domesticated or continued shall remain attached to the transferred or domesticated or continued entity or business form (and also to the limited partnership that has transferred, domesticated or continued, if and for so long as such limited partnership continues its existence as a domestic limited partnership), and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as the transferred or domesticated or continued entity or business form. The rights, privileges, powers and interests in property of the limited partnership that has transferred or domesticated or continued, as well as the debts, liabilities and duties of such limited partnership, shall not be deemed, as a consequence of the transfer or domestication or continuance out of the State of Delaware, to have been transferred to the transferred or domesticated or continued entity or business form for any purpose of the laws of the State of Delaware.

(h) A partnership agreement may provide that a domestic limited partnership shall not have the power to transfer, domesticate or continue as set forth in this section.

§17-217. CONVERSION OF CERTAIN ENTITIES TO A LIMITED PARTNERSHIP.

(a) As used in this section **and in § 17-204**, the term "other entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, or any other unincorporated business or entity, including a general partnership (including a limited liability partnership) or a foreign limited partnership (including a foreign limited liability limited partnership) or a limited liability company.

(b) Any other entity may convert to a domestic limited partnership (including a limited liability limited partnership) by complying with subsection (h) of this section and filing in the Office of the Secretary of State in accordance with § 17-206 of this title:

(1) A certificate of conversion to limited partnership that has been executed in accordance with § 17-204 of this title;

(2) A certificate of limited partnership that complies with § 17-201 of this title and has been executed in accordance with § 17-204 of this title; and

(3) In the case of a conversion to a limited liability limited partnership, a statement of qualification in accordance with subsection (c) of § 15-1001 of this Title.

(c) The certificate of conversion to limited partnership shall state:

(1) The date on which and jurisdiction where the other entity was first created, incorporated, formed or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic limited partnership;

(2) The name of the other entity immediately prior to the filing of the certificate of conversion to limited partnership;

(3) The name of the limited partnership as set forth in its certificate of limited partnership filed in accordance with subsection (b) of this section; and

(4) The future effective date or time (which shall be a date or time certain) of the conversion to a limited partnership if it is not to be effective upon the filing of the certificate of conversion to limited partnership and the certificate of limited partnership.

(d) Upon the filing in the Office of the Secretary of State of the certificate of conversion to limited partnership, the certificate of limited partnership and the statement of qualification (if applicable), or upon the future effective date or time of the certificate of conversion to limited partnership, the certificate of limited partnership and the statement of qualification (if applicable), the other entity shall be converted into a domestic limited partnership (including a limited liability

limited partnership, if applicable) and the limited partnership shall thereafter be subject to all of the provisions of this chapter, except that notwithstanding § 17-201 of this title, the existence of the limited partnership shall be deemed to have commenced on the date the other entity commenced its existence in the jurisdiction in which the other entity was first created, formed, incorporated or otherwise came into being.

(e) The conversion of any other entity into a domestic limited partnership (including a limited liability limited partnership) shall not be deemed to affect any obligations or liabilities of the other entity incurred prior to its conversion to a domestic limited partnership, or the personal liability of any person incurred prior to such conversion.

(f) When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the other entity that has converted, and all property, real, personal and mixed, and all debts due to such other entity, as well as all other things and causes of action belonging to such other entity, shall remain vested in the domestic limited partnership to which such other entity has converted and shall be the property of such domestic limited partnership, and the title to any real property vested by deed or otherwise in such other entity shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired, and all debts, liabilities and duties of the other entity that has converted shall remain attached to the domestic limited partnership to which such other entity has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited partnership. The rights, privileges, powers and interests in property of the other entity, as well as the debts, liabilities and duties of the other entity, shall not be deemed, as a consequence of the conversion, to have been transferred to the domestic limited partnership to which such other entity has converted for any purpose of the laws of the State of Delaware.

(g) Unless otherwise agreed, for all purposes of the laws of the State of Delaware, the converting other entity shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion shall not be deemed to constitute a dissolution of such other entity. When an other entity has been converted to a limited partnership pursuant to this section, for all purposes of the laws of the State of Delaware, the limited partnership shall be deemed to be the same entity as the converting other entity and the conversion shall constitute a continuation of the existence of the converting other entity in the form of a domestic limited partnership.

(h) Prior to filing a certificate of conversion to limited partnership with the Office of the Secretary of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its

business or by applicable law, as appropriate, and a partnership agreement shall be approved by the same authorization required to approve the conversion; provided that, in any event, such approval shall include the approval of any person who, at the effective date or time of the conversion, shall be a general partner of the limited partnership.

(i) In connection with a conversion hereunder, rights or securities of, or interests in, the other entity which is to be converted to a domestic limited partnership may be exchanged for or converted into cash, property, rights or securities of, or interests in, such domestic limited partnership or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, another domestic limited partnership or other entity or may be cancelled.

(j) The provisions of this section shall not be construed to limit the accomplishment of a change in the law governing, or the domicile of, an other entity to the State of Delaware by any other means provided for in a partnership agreement or other agreement or as otherwise permitted by law, including by the amendment of a partnership agreement or other agreement.

§17-218. SERIES OF LIMITED PARTNERS, GENERAL PARTNERS, PARTNERSHIP INTERESTS OR ASSETS.

(a) A partnership agreement may establish or provide for the establishment of 1 or more designated series of limited partners, general partners, partnership interests or assets. Any such series may have separate rights, powers or duties with respect to specified property or obligations of the limited partnership or profits and losses associated with specified property or obligations, and any such series may have a separate business purpose or investment objective.

(b) Notwithstanding anything to the contrary set forth in this chapter or under other applicable law, in the event that a partnership agreement establishes or provides for the establishment of one or more series or states that the liabilities of a general partner are limited to the liabilities of a designated series, and if the records maintained for any such series account for the assets associated with such series separately from the other assets of the limited partnership, or any other series thereof, and if the partnership agreement so provides, and if notice of the limitation on liabilities of a series or a general partner as referenced in this subsection is set forth in the certificate of limited partnership, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series or general partner shall be enforceable only against the assets of such series or a general partner associated with such series and not against the assets of the limited partnership generally, any other series thereof, or any general partner not associated with such series, and, unless otherwise provided in the partnership agreement, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with

respect to the limited partnership generally or any other series thereof shall be enforceable against the assets of such series or a general partner associated with such series. Assets associated with a series may be held directly or indirectly, including in the name of such series, in the name of the limited partnership, through a nominee or otherwise. Records maintained for a series that reasonably identify its assets, including by specific listing, category, type, quantity, computational or allocational formula or procedure (including a percentage or share of any asset or assets) or by any other method where the identity of such assets is objectively determinable, will be deemed to account for the assets associated with such series separately from the other assets of the limited partnership, or any other series thereof.

(c) A series established in accordance with subsection (b) of this section may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of banking as defined in § 126 of Title 8. Unless otherwise provided in a partnership agreement, a series established in accordance with subsection (b) of this section shall have the power and capacity to, in its own name, contract, hold title to assets (including real, personal and intangible property), grant liens and security interests, and sue and be sued.

(d) Notice in a certificate of limited partnership of the limitation on liabilities of a series as referenced in subsection (b) of this section shall be sufficient for all purposes of subsection (b) of this section whether or not the limited partnership has established any series when such notice is included in the certificate of limited partnership, and there shall be no requirement that any specific series of the limited partnership be referenced in such notice. The fact that a certificate of limited partnership that contains the notice of the limitation on liabilities of a series or a general partner as referenced in subsection (b) of this section is on file in the Office of the Secretary of State shall constitute notice of such limitation on liabilities.

(e) A limited partner may possess or exercise any of the rights and powers or act or attempt to act in 1 or more of the capacities as permitted under § 17-303 of this title, with respect to any series, without participating in the control of the business of the limited partnership or with respect to any series thereof within the meaning of § 17-303(a) of this title. A partnership agreement may provide for classes or groups of general partners or limited partners associated with a series having such relative rights, powers and duties as the partnership agreement may provide, and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of general partners or limited partners associated with the series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of general partners or limited partners associated with the series. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any general partner or limited partner or class or group of

general partners or limited partners, including an action to create under the provisions of the partnership agreement a class or group of the series of partnership interests that was not previously outstanding.

(f) A partnership agreement may grant to all or certain identified general partners or limited partners or a specified class or group of the general partners or limited partners associated with a series the right to vote separately or with all or any class or group of the general partners or limited partners associated with the series, on any matter. Voting by general partners or limited partners associated with a series may be on a per capita, number, financial interest, class, group or any other basis.

(g) Section 17-603 of this title shall apply to a limited partner with respect to any series with which the limited partner is associated. Except as otherwise provided in a partnership agreement, any event under this subsection or in a partnership agreement that causes a limited partner to cease to be associated with a series shall not, in itself, cause such limited partner to cease to be associated with any other series or to be a limited partner of the limited partnership or cause the termination of the series, regardless of whether such limited partner was the last remaining limited partner associated with such series. A limited partner shall cease to be a limited partner with respect to a series and to have the power to exercise any rights or powers of a limited partner with respect to such series upon the happening of either of the following events:

(1) The limited partner withdraws with respect to the series in accordance with § 17-603 of this title; or

(2) Except as otherwise provided in the partnership agreement, the limited partner assigns all of his partnership interest with respect to the series.

(h) Section 17-602 of this title shall apply to a general partner with respect to any series with which the general partner is associated. A general partner shall cease to be a general partner with respect to a series and to have the power to exercise any rights or powers of a general partner with respect to such series upon an event of withdrawal of the general partner with respect to such series. Except as otherwise provided in a partnership agreement, either of the following events or any event in a partnership agreement that causes a general partner to cease to be associated with a series shall not, in itself, cause such general partner to cease to be associated with any other series or to be a general partner of the limited partnership:

(1) The general partner withdraws with respect to the series in accordance with § 17-602 of this title; or

(2) The general partner assigns all of his partnership interest with respect to the series.

(i) Notwithstanding § 17-606 of this title, but subject to subsections (j) and (l) of this section, and unless otherwise provided in a partnership agreement, at the time a partner associated with a series that has been established in accordance with subsection (b) of this section becomes entitled to receive a distribution with

respect to such series, he has the status of, and is entitled to all remedies available to, a creditor of the series, with respect to the distribution. A partnership agreement may provide for the establishment of a record date with respect to allocations and distributions with respect to a series.

(j) Notwithstanding § 17-607(a) of this title, a limited partnership may make a distribution with respect to a series that has been established in accordance with subsection (b) of this section. A limited partnership shall not make a distribution with respect to a series that has been established in accordance with subsection (b) of this section to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to partners on account of their partnership interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series, except that the fair value of property of the series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that property exceeds that liability. For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A limited partner who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, shall be liable to a series for the amount of the distribution. A limited partner who receives a distribution in violation of this subsection, and who did not know at the time of the distribution that the distribution violated this subsection, shall not be liable for the amount of the distribution. Subject to § 17-607(c) of this title, which shall apply to any distribution made with respect to a series under this subsection, this subsection shall not affect any obligation or liability of a limited partner under an agreement or other applicable law for the amount of a distribution.

(k) Subject to § 17-801 of this title, except to the extent otherwise provided in the partnership agreement, a series may be terminated and its affairs wound up without causing the dissolution of the limited partnership. The termination of a series established in accordance with subsection (b) of this section shall not affect the limitation on liabilities of such series provided by subsection (b) of this section. A series is terminated and its affairs shall be wound up upon the dissolution of the limited partnership under § 17-801 of this chapter or otherwise upon the first to occur of the following:

(1) At the time specified in the partnership agreement;

(2) Upon the happening of events specified in the partnership agreement;

(3) Unless otherwise provided in the partnership agreement, upon the affirmative vote or written consent of (a) all general partners associated with such

series and (b) the limited partners associated with such series or, if there is more than one class or group of limited partners associated with such series, then by each class or group of limited partners associated with such series, in either case, by limited partners associated with such series who own more than two-thirds of the then current percentage or other interest in the profits of the limited partnership associated with such series owned by all of the limited partners associated with such series or by the limited partners in each class or group associated with such series, as appropriate;

(4) An event of withdrawal of a general partner associated with the series unless at the time there is at least one other general partner associated with the series and the partnership agreement permits the business of the series to be carried on by the remaining general partner and that partner does so, but the series is not terminated and is not required to be wound up by reason of any event of withdrawal if (i) within 90 days or such other period as is provided for in the partnership agreement after the withdrawal either (A) if provided for in the partnership agreement, the then current percentage or other interest in the profits of the series specified in the partnership agreement owned by the remaining partners associated with the series agree in writing or vote to continue the business of the series and to appoint, effective as of the date of withdrawal, one or more additional general partners for the series if necessary or desired, or (B) if no such right to agree or vote to continue the business of the series of the limited partnership and to appoint one or more additional general partners for such series is provided for in the partnership agreement, then more than 50% of the then current percentage or other interest in the profits of the series owned by the remaining partners associated with the series or, if there is more than one class or group of remaining partners associated with the series, then more than 50% of the then current percentage or other interest in the profits of the series owned by each class or classes or group or groups of remaining partners associated with the series, agree in writing or vote to continue the business of the series and to appoint, effective as of the date of withdrawal, one or more additional general partners for the series if necessary or desired, or (ii) the business of the series is continued pursuant to a right to continue stated in the partnership agreement and the appointment, effective as of the date of withdrawal, of 1 or more additional general partners to be associated with the series if necessary or desired; or

(5) The termination of such series under subsection (m) of this section.

(l) Notwithstanding § 17-803(a) of this title, unless otherwise provided in the partnership agreement, a general partner associated with a series who has not wrongfully terminated the series or, if none, the limited partners associated with the series or a person approved by the limited partners associated with the series or, if there is more than one class or group of limited partners associated with the series, then by each class or group of limited partners associated with the series, in either case, by limited partners who own more than 50 percent of the then

current percentage or other interest in the profits of the series owned by all of the limited partners associated with the series or by the limited partners in each class or group associated with the series, as appropriate, may wind up the affairs of the series; but, if the series has been established in accordance with subsection (b) of this section, the Court of Chancery, upon cause shown, may wind up the affairs of the series upon application of any partner associated with the series, his personal representative or assignee, and in connection therewith, may appoint a liquidating trustee. The persons winding up the affairs of a series may, in the name of the limited partnership and for and on behalf of the limited partnership and such series, take all actions with respect to the series as are permitted under § 17-803(b) of this title. The persons winding up the affairs of a series shall provide for the claims and obligations of the series and distribute the assets of the series as provided in § 17-804 of this title, which section shall apply to the winding up and distribution of assets of a series. Actions taken in accordance with this subsection shall not affect the liability of limited partners and shall not impose liability on a liquidating trustee.

(m) On application by or for a partner associated with a series established in accordance with subsection (b) of this section, the Court of Chancery may decree termination of such series whenever it is not reasonably practicable to carry on the business of the series in conformity with a partnership agreement.

(n) If a foreign limited partnership that is registering to do business in the State of Delaware in accordance with § 17-902 of this chapter is governed by a partnership agreement that establishes or provides for the establishment of designated series of limited partners, general partners, partnership interest or assets having separate rights, powers or duties with respect to specified property or obligations of the foreign limited partnership or profits and losses associated with specified property or obligations, that fact shall be so stated on the application for registration as a foreign limited partnership. In addition, the foreign limited partnership shall state on such application whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, or general partner associated with such series shall be enforceable only against the assets of such series or any general partner associated with such series, and not against the assets of the foreign limited partnership generally, any other series thereof, or any general partner not associated with such series, and whether any of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign limited partnership generally or any other series thereof shall be enforceable against the assets of such series or a general partner associated with such series.

§17-219. APPROVAL OF CONVERSION OF A LIMITED PARTNERSHIP.

(a) Upon compliance with this section, a domestic limited partnership may convert to a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust or any other unincorporated business or entity, including a general partnership (including a limited liability partnership) or a foreign limited partnership (including a foreign limited liability limited partnership) or a limited liability company.

(b) If the partnership agreement specifies the manner of authorizing a conversion of the limited partnership, the conversion shall be authorized as specified in the partnership agreement. If the partnership agreement does not specify the manner of authorizing a conversion of the limited partnership and does not prohibit a conversion of the limited partnership, the conversion shall be authorized in the same manner as is specified in the partnership agreement for authorizing a merger or consolidation that involves the limited partnership as a constituent party to the merger or consolidation. If the partnership agreement does not specify the manner of authorizing a conversion of the limited partnership or a merger or consolidation that involves the limited partnership as a constituent party and does not prohibit a conversion of the limited partnership, the conversion shall be authorized by the approval (1) by all general partners, and (2) by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

(c) Unless otherwise agreed, the conversion of a domestic limited partnership to another entity or business form pursuant to this section shall not require such limited partnership to wind up its affairs under § 17-803 of this title or pay its liabilities and distribute its assets under § 17-804 of this title, and the conversion shall not constitute a dissolution of such limited partnership. When a limited partnership has converted to another entity or business form pursuant to this Section, for all purposes of the laws of the State of Delaware, the other entity or business form shall be deemed to be the same entity as the converting limited partnership and the conversion shall constitute a continuation of the existence of the limited partnership in the form of such other entity or business form.

(d) In connection with a conversion of a domestic limited partnership to another entity or business form pursuant to this section, rights or securities of or interest in the domestic limited partnership which is to be converted may be exchanged for or converted into cash, property, rights or securities of or interests in the entity or business form into which the domestic limited partnership is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of or interests in another entity or business form or may be cancelled.

(e) If a limited partnership shall convert in accordance with this section to another entity or business form organized, formed or created under the laws of a jurisdiction other than the State of Delaware, a certificate of conversion to non-Delaware entity executed in accordance with § 17-204 of this title shall be filed in the office of the Secretary of State in accordance with § 17-206 of this title. The certificate of conversion to non-Delaware entity shall state:

(1) The name of the limited partnership and, if it has been changed, the name under which its certificate of limited partnership was originally filed;

(2) The date of filing of its original certificate of limited partnership with the Secretary of State;

(3) The jurisdiction in which the entity or business form, to which the limited partnership shall be converted, is organized, formed or created, and the name of such entity or business form;

(4) The future effective date or time (which shall be a date or time certain) of the conversion if it is not to be effective upon the filing of the certificate of conversion to non-Delaware entity;

(5) That the conversion has been approved in accordance with this section;

(6) The agreement of the limited partnership that it may be served with process in the State of Delaware in any action, suit or proceeding for enforcement of any obligation of the limited partnership arising while it was a limited partnership of the State of Delaware, and that it irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding;

(7) The address to which a copy of the process referred to in subsection (e)(6) of this section shall be mailed to it by the Secretary of State. In the event of service hereunder upon the Secretary of State, the procedures set forth in § 17-911(c) of this title shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in this subsection (e)(7) and any other address that the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify the limited partnership that has converted out of the State of Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 17-911(c) of this title.

(f) Upon the filing in the office of the Secretary of State of the certificate of conversion to non-Delaware entity or upon the future effective date or time of the certificate of conversion to non-Delaware entity and payment to the Secretary of State of all fees prescribed in this chapter, the Secretary of State shall certify that the limited partnership has filed all documents and paid all fees required by this chapter, and thereupon the limited partnership shall cease to exist as a limited partnership of the State of Delaware. Such certificate of the Secretary of State shall be prima facie evidence of the conversion by such limited partnership out of the State of Delaware.

(g) The conversion of a limited partnership out of the State of Delaware in accordance with this section and the resulting cessation of its existence as a limited partnership of the State of Delaware pursuant to a certificate of conversion to non-Delaware entity shall not be deemed to affect any obligations or liabilities of the limited partnership incurred prior to such conversion or the personal liability of any person incurred prior to such conversion, nor shall it be deemed to affect the choice of law applicable to the limited partnership with respect to matters arising prior to such conversion.

(h) When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the limited partnership that has converted, and all property, real, personal and mixed, and all debts due to such limited partnership, as well as all other things and causes of action belonging to such limited partnership, shall remain vested in the other entity or business form to which such limited partnership has converted and shall be the property of such other entity or business form, and the title to any real property vested by deed or otherwise in such limited partnership shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such limited partnership shall be preserved unimpaired, and all debts, liabilities and duties of the limited partnership that has converted shall remain attached to the other entity or business form to which such limited partnership has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as such other entity or business form. The rights, privileges, powers and interests in property of the limited partnership that has converted, as well as the debts, liabilities and duties of such limited partnership, shall not be deemed, as a consequence of the conversion, to have been transferred to the other entity or business form to which such limited partnership has converted for any purpose of the laws of the State of Delaware.

(i) A partnership agreement may provide that a domestic limited partnership shall not have the power to convert as set forth in this section.

SUBCHAPTER III—LIMITED PARTNERS

§17-301. ADMISSION OF LIMITED PARTNERS.

(a) In connection with the formation of a limited partnership, a person is admitted as a limited partner of the limited partnership upon the later to occur of:

(1) The formation of the limited partnership; or

(2) The time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when the person's admission is reflected in the records of the limited partnership.

(b) After the formation of a limited partnership, a person is admitted as a limited partner of the limited partnership:

(1) In the case of a person who is not an assignee of a partnership interest, including a person acquiring a partnership interest directly from the limited partnership and a person to be admitted as a limited partner of the limited partnership without acquiring a partnership interest in the limited partnership, at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the consent of all partners and when the person's admission is reflected in the records of the limited partnership;

(2) In the case of an assignee of a partnership interest, as provided in § 17-704(a) of this title and at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when any such person's permitted admission is reflected in the records of the limited partnership; or

(3) In the case of a person being admitted as a partner of a surviving or resulting limited partnership pursuant to a merger or consolidation approved in accordance with § 17-211(b) of this title, as provided in the partnership agreement of the surviving or resulting limited partnership or in the agreement of merger or consolidation, and in the event of any inconsistency, the terms of the agreement of merger or consolidation shall control; and in the case of a person being admitted as a partner of a limited partnership pursuant to a merger or consolidation in which such limited partnership is not the surviving or resulting limited partnership in the merger or consolidation, as provided in the partnership agreement of such limited partnership.

(c) In connection with the domestication of a non-United States entity (as defined in § 17-215 of this title) as a limited partnership in the State of Delaware in accordance with § 17-215 of this title or the conversion of an other entity (as defined in § 17-217 of this title) to a domestic limited partnership in accordance with § 17-217 of this title, a person is admitted as a limited partner of the limited partnership as provided in the partnership agreement.

(d) A person may be admitted to a limited partnership as a limited partner of the limited partnership and may receive a partnership interest in the limited partnership without making a contribution or being obligated to make a contribution to the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted to a limited partnership as a limited partner of the limited partnership without acquiring a partnership interest in the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted as the sole limited partner of a limited partnership without making a contribution or being obligated to make a contribution to the limited partnership or without acquiring a partnership interest in the limited partnership.

(e) Unless otherwise provided in a partnership agreement or another agreement, a limited partner shall have no preemptive right to subscribe to any additional issue of partnership interests or another interest in a limited partnership.

§17-302. CLASSES AND VOTING.

(a) A partnership agreement may provide for classes or groups of limited partners having such relative rights, powers and duties as the partnership agreement may provide, and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of limited partners having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of limited partners. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any limited partner or class or group of limited partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding.

(b) Subject to § 17-303 of this title, the partnership agreement may grant to all or certain identified limited partners or a specified class or group of the limited partners the right to vote separately or with all or any class or group of the limited partners or the general partners, on any matter. Voting by limited partners may be on a per capita, number, financial interest, class, group or any other basis.

(c) A partnership agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any limited partners, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Any right or power, including voting rights, granted to limited partners as permitted under § 17-303 of this title shall be deemed to be permitted by this section.

(e) Unless otherwise provided in a partnership agreement, meetings of limited partners may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on, consented to or approved by limited partners, the limited partners may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the

limited partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all limited partners entitled to vote thereon were present and voted. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by limited partners, the limited partners may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in a partnership agreement, a consent transmitted by electronic transmission by a limited partner or by a person or persons authorized to act for a limited partner shall be deemed to be written and signed for purposes of this subsection (e). For purposes of this subsection (e), the term "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

(f) If a partnership agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the partnership agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law (provided that the approval of any person may be waived by such person and that any such conditions may be waived by all persons for whose benefit such conditions were intended). If a partnership agreement does not provide for the manner in which it may be amended, the partnership agreement may be amended with the approval of all the partners or as otherwise permitted by law. A limited partner and any class or group of limited partners have the right to vote only on matters as specifically set forth in this chapter, on matters specifically provided by agreement, including a partnership agreement, and on any matter with respect to which a general partner may determine in its discretion to seek a vote of a limited partner or a class or group of limited partners if a vote on such matter is not contrary to a partnership agreement or another agreement to which a general partner or the limited partnership is a party. A limited partner and any class or group of limited partners have no other voting rights. A partnership agreement may provide that any limited partner or class or group of limited partners shall have no voting rights.

§17-303. LIABILITY TO THIRD PARTIES.

(a) A limited partner is not liable for the obligations of a limited partnership unless he is also a general partner or, in addition to the exercise of his rights and powers as a limited partner, he participates in the control of the business. However, if the limited partner does participate in the control of the business, he is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section by virtue of his possessing or, regardless of whether or not the limited partner has the rights or powers, exercising or attempting to exercise 1 or more of the following rights or powers or having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in 1 or more of the following capacities:

(1) To be an independent contractor for or to transact business with, including being a contractor for, or to be an agent or employee of, the limited partnership or a general partner, or to be an officer, director or stockholder of a corporate general partner, or to be a partner of a partnership that is a general partner of the limited partnership, or to be a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust which is a general partner, or to be a trustee, officer, advisor, stockholder or beneficiary of a business trust or a statutory trust which is a general partner, or to be a member, manager, agent or employee of a limited liability company which is a general partner;

(2) To consult with or advise a general partner or any other person with respect to any matter, including the business of the limited partnership, or to act or cause a general partner or any other person to take or refrain from taking any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to any matter, including the business of the limited partnership;

(3) To act as surety, guarantor or endorser for the limited partnership or a general partner, to guaranty or assume one or more obligations of the limited partnership or a general partner, to borrow money from the limited partnership or a general partner, to lend money to the limited partnership or a general partner, or to provide collateral for the limited partnership or a general partner;

(4) To call, request, or attend or participate at a meeting of the partners or the limited partners;

(5) To wind up a limited partnership pursuant to § 17-803 of this title;

(6) To take any action required or permitted by law to bring, pursue or settle or otherwise terminate a derivative action in the right of the limited partnership;

(7) To serve on a committee of the limited partnership or the limited partners or partners or to appoint, elect or otherwise participate in the choice of a representative or another person to serve on any such committee, and to act as a member of any such committee directly or by or through any such representative or other person;

(8) To act or cause the taking or refraining from the taking of any action, including by proposing, approving, consenting or disapproving, by voting or otherwise, with respect to 1 or more of the following matters:

a. The dissolution and winding up of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

b. The sale, exchange, lease, mortgage, assignment, pledge or other transfer of, or granting of a security interest in, any asset or assets of the limited partnership;

c. The incurrence, renewal, refinancing or payment or other discharge of indebtedness by the limited partnership;

d. A change in the nature of the business;

e. The admission, removal or retention of a general partner;

f. The admission, removal or retention of a limited partner;

g. A transaction or other matter involving an actual or potential conflict of interest;

h. An amendment to the partnership agreement or certificate of limited partnership;

i. The merger or consolidation of a limited partnership;

j. In respect of a limited partnership which is registered as an investment company under the Investment Company Act of 1940, as amended, any matter required by the Investment Company Act of 1940, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder, to be approved by the holders of beneficial interests in an investment company, including the electing of directors or trustees of the investment company, the approving or terminating of investment advisory or underwriting contracts and the approving of auditors;

k. The indemnification of any partner or other person;

l. The making of, or calling for, or the making of other determinations in connection with, contributions;

m. The making of, or the making of other determinations in connection with or concerning, investments, including investments in property, whether real, personal or mixed, either directly or indirectly, by the limited partnership; **[or]**

n. The nomination, appointment, election or other manner of selection or removal of an independent contractor for, or an agent or employee of, the limited partnership or a general partner, or an officer, director or stockholder of a corporate general partner, or a partner of a partnership which is a general partner, or a trustee, administrator, executor, custodian or other fiduciary or beneficiary of an estate or trust which is a general partner, or a trustee, officer, advisor, stockholder or beneficiary of a business trust or a statutory trust which is a general partner, or a member or manager of a limited liability company which is a general partner, or a member of a governing body of, or a fiduciary for, any person, whether domestic or foreign, which is a general partner; or

o. Such other matters as are stated in the partnership agreement or in any other agreement or in writing**[;]**.

(9) To serve on the board of directors or a committee of, to consult with or advise, to be an officer, director, stockholder, partner, member, manager, trustee, agent or employee of, or to be a fiduciary or contractor for, any person in which the limited partnership has an interest or any person providing management, consulting, advisory, custody or other services or products for, to or on behalf of, or otherwise having a business or other relationship with, the limited partnership or a general partner of the limited partnership; or

(10) Any right or power granted or permitted to limited partners under this chapter and not specifically enumerated in this subsection.

(c) The enumeration in subsection (b) of this section does not mean that the possession or exercise of any other powers or having or acting in other capacities by a limited partner constitutes participation by him in the control of the business of the limited partnership.

(d) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section by virtue of the fact that all or any part of the name of such limited partner is included in the name of the limited partnership.

(e) This section does not create rights or powers of limited partners. Such rights and powers may be created only by a certificate of limited partnership, a partnership agreement or any other agreement or in writing, or other sections of this chapter.

(f) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section regardless of the nature, extent, scope, number or frequency of the limited partner's possessing or, regardless of whether or not the limited partner has the rights or powers, exercising or attempting to exercise 1 or more of the rights or powers or having or, regardless of whether or not the limited partner has the rights or powers, acting or attempting to act in 1 or more of the capacities which are permitted under this section.

§ 17-304. PERSON ERRONEOUSLY BELIEVING HIMSELF LIMITED PARTNER.

(a) Except as provided in subsection (b) of this section, a person who makes a contribution to a partnership and erroneously but in good faith believes that he has become a limited partner in the partnership is not a general partner in the partnership and is not bound by its obligations by reason of making the contribution, receiving distributions from the partnership or exercising any rights of a limited partner, if, within a reasonable time after ascertaining the mistake:

(1) In the case of a person who wishes to be a limited partner, he causes an appropriate certificate to be executed and filed; or

(2) In the case of a person who wishes to withdraw from the partnership, he takes such action as may be necessary to withdraw.

(b) A person who makes a contribution under the circumstances described in subsection (a) of this section is liable as a general partner to any third party who transacts business with the partnership prior to the occurrence of either of the events referred to in subsection (a) of this section:

(1) If such person knew or should have known either that no certificate has been filed or that the certificate inaccurately refers to him as a general partner; and

(2) If the third party actually believed in good faith that such person was a general partner at the time of the transaction, acted in reasonable reliance on such belief and extended credit to the partnership in reasonable reliance on the credit of such person.

§17-305. ACCESS TO AND CONFIDENTIALITY OF INFORMATION; RECORDS.

(a) Each limited partner has the right, subject to such reasonable standards (including standards governing what information and documents are to be furnished, at what time and location and at whose expense) as may be set forth in the partnership agreement or otherwise established by the general partners, to obtain from the general partners from time to time upon reasonable demand for any purpose reasonably related to the limited partner's interest as a limited partner:

(1) True and full information regarding the status of the business and financial condition of the limited partnership;

(2) Promptly after becoming available, a copy of the limited partnership's federal, state and local income tax returns for each year;

(3) A current list of the name and last known business, residence or mailing address of each partner;

(4) A copy of any written partnership agreement and certificate of limited partnership and all amendments thereto, together with executed copies of any written powers of attorney pursuant to which the partnership agreement and any certificate and all amendments thereto have been executed;

(5) True and full information regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each partner and which each partner has agreed to contribute in the future, and the date on which each became a partner; and

(6) Other information regarding the affairs of the limited partnership as is just and reasonable.

(b) A general partner shall have the right to keep confidential from limited partners for such period of time as the general partner deems reasonable, any information which the general partner reasonably believes to be in the nature of

trade secrets or other information the disclosure of which the general partner in good faith believes is not in the best interest of the limited partnership or could damage the limited partnership or its business or which the limited partnership is required by law or by agreement with a third party to keep confidential.

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

(d) Any demand under this section shall be in writing and shall state the purpose of such demand.

(e) Any action to enforce any right arising under this section shall be brought in the Court of Chancery. If a general partner refuses to permit a limited partner to obtain from the general partner the information described in subsection (a)(3) of this section or does not reply to the demand that has been made within 5 business days after the demand has been made, the limited partner may apply to the Court of Chancery for an order to compel such disclosure. The Court of Chancery is hereby vested with exclusive jurisdiction to determine whether or not the person seeking such information is entitled to the information sought. The Court of Chancery may summarily order the general partner to permit the limited partner to obtain the information described in subsection (a)(3) of this section and to make copies or abstracts therefrom; or the Court of Chancery may summarily order the general partner to furnish to the limited partner the information described in subsection (a)(3) of this section on the condition that the limited partner first pay to the limited partnership the reasonable cost of obtaining and furnishing such information and on such other conditions as the Court of Chancery deems appropriate. When a limited partner seeks to obtain the information described in subsection (a)(3) of this section, the limited partner shall first establish (1) that the limited partner has complied with the provisions of this section respecting the form and manner of making demand for obtaining such information, and (2) that the information the limited partner seeks is reasonably related to the limited partner's interest as a limited partner. The Court of Chancery may, in its discretion, prescribe any limitations or conditions with reference to the obtaining of information, or award such other or further relief as the Court of Chancery may deem just and proper. The Court of Chancery may order books, documents and records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within the State of Delaware and kept in the State of Delaware upon such terms and conditions as the order may prescribe.

(f) The rights of a limited partner to obtain information as provided in this section may be restricted in an original partnership agreement or in any subsequent amendment approved or adopted by all of the partners and in compliance with any applicable requirements of the partnership agreement. The provisions of this subsection shall not be construed to limit the ability to impose

restrictions on the rights of a limited partner to obtain information by any other means permitted under this section.

§17-306. REMEDIES FOR BREACH OF PARTNERSHIP AGREEMENT BY LIMITED PARTNER.

A partnership agreement may provide that (1) a limited partner who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the partnership agreement, a limited partner shall be subject to specified penalties or specified consequences. Such specified penalties or specified consequences may include and take the form of any penalty or consequence set forth in § 17-502(c) of this chapter.

SUBCHAPTER IV—GENERAL PARTNERS

§17-401. ADMISSION OF GENERAL PARTNERS.

(a) A person may be admitted to a limited partnership as a general partner of the limited partnership and may receive a partnership interest in the limited partnership without making a contribution or being obligated to make a contribution to the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted to a limited partnership as a general partner of the limited partnership without acquiring a partnership interest in the limited partnership. Unless otherwise provided in a partnership agreement, a person may be admitted as the sole general partner of a limited partnership without making a contribution or being obligated to make a contribution to the limited partnership or without acquiring a partnership interest in the limited partnership. Nothing contained in this subsection shall affect the first sentence of § 17-403(b) of this chapter.

(b) After the filing of a limited partnership's initial certificate of limited partnership, unless otherwise provided in the partnership agreement, additional general partners may be admitted only with the written consent of each partner.

(c) Unless otherwise provided in a partnership agreement or another agreement, a general partner shall have no preemptive right to subscribe to any additional issue of partnership interests or another interest in a limited partnership.

§17-402. EVENTS OF WITHDRAWAL.

(a) A person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in § 17-602 of this title;

(2) The general partner ceases to be a general partner of the limited partnership as provided in § 17-702 of this title;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in the partnership agreement, or with the written consent of all partners, the general partner:

a. Makes an assignment for the benefit of creditors;

b. Files a voluntary petition in bankruptcy;

c. Is adjudged a bankrupt or insolvent, or has entered against him an order for relief in any bankruptcy or insolvency proceeding;

d. Files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation; Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of this nature; or Seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the general partner or of all or any substantial part of his properties;

(5) Unless otherwise provided in the partnership agreement, or with the written consent of all partners, 120 days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, the proceeding has not been dismissed, or if within 90 days after the appointment without his consent or acquiescence of a trustee, receiver or liquidator of the general partner or of all or any substantial part of his properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated;

(6) In the case of a general partner who is a natural person:

a. His death; or

b. The entry by a court of competent jurisdiction adjudicating him incompetent to manage his person or his property;

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

(8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter and the expiration of 90 days after the date of notice to the corporation of revocation without a reinstatement of its charter;

(10) Unless otherwise provided in the partnership agreement, or with the written consent of all partners, in the case of a general partner that is an estate,

the distribution by the fiduciary of the estate's entire interest in the limited partnership;

(11) In the case of a general partner that is a limited liability company, the dissolution and commencement of winding up of the limited liability company; or

(12) In the case of a general partner who is not an individual, partnership, limited liability company, corporation, trust or estate, the termination of the general partner.

(b) A general partner who suffers an event that with the passage of the specified period becomes an event of withdrawal under subsection (a)(4) or (5) of this section shall notify each other general partner, or in the event that there is no other general partner, each limited partner, of the occurrence of the event within 30 days after the date of occurrence of the event of withdrawal.

§17-403. GENERAL POWERS AND LIABILITIES.

(a) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership that is governed by the Delaware Uniform Partnership Law (6 Del. C. § 1501, et seq.).

(b) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership that is governed by the Delaware Uniform Partnership Law (6 Del. C. § 1501, et seq.) to persons other than the partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership that is governed by the Delaware Uniform Partnership Law (6 Del. C. § 1501, et seq.) to the partnership and to the other partners.

(c) Unless otherwise provided in the partnership agreement, a general partner of a limited partnership has the power and authority to delegate to one or more other persons the general partner's rights and powers to manage and control the business and affairs of the limited partnership, including to delegate to agents, officers and employees of the general partner or the limited partnership, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the partnership agreement, such delegation by a general partner of a limited partnership shall not cause the general partner to cease to be a general partner of the limited partnership or cause the person to whom any such rights and powers have been delegated to be a general partner of the limited partnership.

(d) A judgment creditor of a general partner of a limited partnership may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership unless:

(1) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The limited partnership is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust the assets of the limited partnership;

(4) A Court grants permission to the judgment creditor to levy execution against the assets of the general partner based on a finding that the assets of the limited partnership that are subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the limited partnership is excessively burdensome, or that the grant of permission is an appropriate exercise of the Court's equitable powers; or

(5) Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

§17-404. CONTRIBUTIONS BY A GENERAL PARTNER.

A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the rights and powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the partnership as a limited partner.

§17-405. CLASSES AND VOTING.

(a) A partnership agreement may provide for classes or groups of general partners having such relative rights, powers and duties as the partnership agreement may provide, and may make provision for the future creation in the manner provided in the partnership agreement of additional classes or groups of general partners having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of general partners. A partnership agreement may provide for the taking of an action, including the amendment of the partnership agreement, without the vote or approval of any general partner or class or group of general partners, including an action to create under the provisions of the partnership agreement a class or group of partnership interests that was not previously outstanding.

(b) The partnership agreement may grant to all or certain identified general partners or a specified class or group of the general partners the right to vote,

separately or with all or any class or group of the limited partners or the general partners, on any matter. Voting by general partners may be on a per capita, number, financial interest, class, group or any other basis.

(c) A partnership agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any general partner, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(d) Unless otherwise provided in a partnership agreement, meetings of general partners may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on, consented to or approved by general partners, the general partners may take such action without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the general partners having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all general partners entitled to vote thereon were present and voted. Unless otherwise provided in a partnership agreement, on any matter that is to be voted on by general partners, the general partners may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in a partnership agreement, a consent transmitted by electronic transmission by a general partner or by a person or persons authorized to act for a general partner shall be deemed to be written and signed for purposes of this subsection (d). For purposes of this subsection (d), the term "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

§17-406. REMEDIES FOR BREACH OF PARTNERSHIP AGREEMENT BY GENERAL PARTNER.

A partnership agreement may provide that (1) a general partner who fails to perform in accordance with, or to comply with the terms and conditions of, the partnership agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the partnership agreement, a general partner shall be subject to specified penalties or specified consequences. Such specified penalties or specified consequences

may include and take the form of any penalty or consequence set forth in § 17-502(c) of this chapter.

§17-407. RELIANCE ON REPORTS AND INFORMATION BY LIMITED PARTNERS, LIQUIDATING TRUSTEES, AND GENERAL PARTNERS.

(a) A limited partner or liquidating trustee of a limited partnership shall be fully protected in relying in good faith upon the records of the limited partnership and upon information, opinions, reports or statements presented by a general partner of the limited partnership, an officer or employee of a general partner of the limited partnership, another liquidating trustee, or committees of the limited partnership, limited partners or partners, or by any other person as to matters the limited partner or liquidating trustee reasonably believes are within such other person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the limited partnership, or the value and amount of assets or reserves or contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of the limited partnership or to make reasonable provision to pay such claims and obligations, or any other facts pertinent to the existence and amount of assets from which distributions to partners or creditors might properly be paid.

(b) A general partner of a limited liability limited partnership shall be fully protected in relying in good faith upon the records of the limited partnership and upon information, opinions, reports or statements presented by another general partner of the limited partnership, an officer or employee of the limited partnership, a liquidating trustee, or committees of the limited partnership, limited partners or partners, or by any other person as to matters the general partner reasonably believes are within such other person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the limited partnership, or the value and amount of assets or reserves or contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of the limited partnership or to make reasonable provision to pay such claims and obligations, or any other facts pertinent to the existence and amount of assets from which distributions to partners or creditors might properly be paid.

(c) A general partner of a limited partnership that is not a limited liability limited partnership shall be fully protected from liability to the limited partnership, its partners or other persons party to or otherwise bound by the partnership agreement in relying in good faith upon the records of the limited partnership and upon information, opinions, reports or statements presented by another general partner of the limited partnership, an officer or employee of the limited partnership, a liquidating trustee, or committees of the limited

partnership, limited partners or partners, or by any other person as to matters the general partner reasonably believes are within such other person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses of the limited partnership, or the value and amount of assets or reserves or contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of the limited partnership or to make reasonable provision to pay such claims and obligations, or any other facts pertinent to the existence and amount of assets from which distributions to partners or creditors might properly be paid.

SUBCHAPTER V—FINANCE

§17-501. FORM OF CONTRIBUTION.

The contribution of a partner may be in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

§17-502. LIABILITY FOR CONTRIBUTION.

(a) (1) Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if he is unable to perform because of death, disability or any other reason. If a partner does not make the required contribution of property or services, he is obligated at the option of the limited partnership to contribute cash equal to that portion of the agreed value (as stated in the records of the limited partnership) of the contribution that has not been made.

(2) The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited partnership may have against such partner under the partnership agreement or applicable law.

(b) (1) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, after the entering into of a partnership agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution or return.

(2) A conditional obligation of a partner to make a contribution or return money or other property to a limited partnership may not be enforced unless the

conditions to the obligation have been satisfied or waived as to or by such partner. Conditional obligations include contributions payable upon a discretionary call of a limited partnership or a general partner prior to the time the call occurs.

(c) A partnership agreement may provide that the interest of any partner who fails to make any contribution that he is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting partner's proportionate interest in the limited partnership, subordinating his partnership interest to that of nondefaulting partners, a forced sale of his partnership interest, forfeiture of his partnership interest, the lending by other partners of the amount necessary to meet his commitment, a fixing of the value of his partnership interest by appraisal or by formula and redemption or sale of his partnership interest at such value, or other penalty or consequence.

§17-503. ALLOCATION OF PROFITS AND LOSSES.

The profits and losses of a limited partnership shall be allocated among the partners, and among classes or groups of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the agreed value (as stated in the records of the limited partnership) of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

§17-504. ALLOCATION OF DISTRIBUTIONS.

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes or groups of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the agreed value (as stated in the records of the limited partnership) of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

§17-505. DEFENSE OF USURY NOT AVAILABLE.

No obligation of a partner of a limited partnership to the limited partnership arising under the partnership agreement or a separate agreement or writing, and no note, instrument or other writing evidencing any such obligation of a partner, shall be subject to the defense of usury, and no partner shall interpose the defense of usury with respect to any such obligation in any action.

SUBCHAPTER VI—DISTRIBUTIONS AND WITHDRAWAL

§17-601. INTERIM DISTRIBUTIONS.

Except as provided in this subchapter, to the extent and at the times or upon the happening of the events specified in the partnership agreement, a partner is entitled to receive from a limited partnership distributions before his withdrawal from the limited partnership and before the dissolution and winding up thereof.

§17-602. WITHDRAWAL OF GENERAL PARTNER AND ASSIGNMENT OF GENERAL PARTNER'S PARTNERSHIP INTEREST.

(a) A general partner may withdraw from a limited partnership at the time or upon the happening of events specified in the partnership agreement and in accordance with the partnership agreement. A partnership agreement may provide that a general partner shall not have the right to withdraw as a general partner of a limited partnership. Notwithstanding that a partnership agreement provides that a general partner does not have the right to withdraw as a general partner of a limited partnership, a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners. If the withdrawal of a general partner violates a partnership agreement, in addition to any remedies otherwise available under applicable law, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to the withdrawing general partner.

(b) Notwithstanding anything to the contrary set forth in this chapter, a partnership agreement may provide that a general partner may not assign a partnership interest in a limited partnership prior to the dissolution and winding up of the limited partnership.

§17-603. WITHDRAWAL OF LIMITED PARTNER.

A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in the partnership agreement and in accordance with the partnership agreement. Notwithstanding anything to the contrary under applicable law, unless a partnership agreement provides otherwise, a limited partner may not withdraw from a limited partnership prior to the dissolution and winding up of the limited partnership. Notwithstanding anything to the contrary under applicable law, a partnership agreement may provide that a partnership interest may not be assigned prior to the dissolution and winding up of the limited partnership.

Unless otherwise provided in a partnership agreement, a limited partnership whose original certificate of limited partnership was filed with the

Secretary of State and effective on or prior to July 31, 1996, shall continue to be governed by 6 Del. C. § 17-603 as in effect on July 31, 1996, and shall not be governed by this section.

§17-604. DISTRIBUTION UPON WITHDRAWAL.

Except as provided in this subchapter, upon withdrawal any withdrawing partner is entitled to receive any distribution to which such partner is entitled under a partnership agreement and, if not otherwise provided in a partnership agreement, such partner is entitled to receive, within a reasonable time after withdrawal, the fair value of such partner's partnership interest in the limited partnership as of the date of withdrawal based upon such partner's right to share in distributions from the limited partnership.

§17-605. DISTRIBUTION IN KIND.

Except as provided in the partnership agreement, a partner, regardless of the nature of his contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him exceeds a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership. Except as provided in the partnership agreement, a partner may be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to him is equal to a percentage of that asset which is equal to the percentage in which he shares in distributions from the limited partnership.

§17-606. RIGHT TO DISTRIBUTION.

(a) Subject to § 17-607 and § 17-804 of this title, and unless otherwise provided in the partnership agreement, at the time a partner becomes entitled to receive a distribution, he has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

(b) A partnership agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited partnership.

§17-607. LIMITATIONS ON DISTRIBUTION.

(a) A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited partnership, other than liabilities to partners on

account of their partnership interests and liabilities for which the recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability. For purposes of this subsection (a), the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program.

(b) A limited partner who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution violated subsection (a) of this section, shall be liable to the limited partnership for the amount of the distribution. A limited partner who receives a distribution in violation of subsection (a) of this section, and who did not know at the time of the distribution that the distribution violated subsection (a) of this section, shall not be liable for the amount of the distribution. Subject to subsection (c) of this section, this subsection (b) shall not affect any obligation or liability of a limited partner under an agreement or other applicable law for the amount of a distribution.

(c) Unless otherwise agreed, a limited partner who receives a distribution from a limited partnership shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution.

SUBCHAPTER VII—ASSIGNMENT OF PARTNERSHIP INTERESTS

§17-701. NATURE OF PARTNERSHIP INTEREST.

A partnership interest is personal property. A partner has no interest in specific limited partnership property.

§17-702. ASSIGNMENT OF PARTNERSHIP INTEREST.

(a) Unless otherwise provided in the partnership agreement:

(1) A partnership interest is assignable in whole or in part;

(2) An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights or powers of a partner;

(3) An assignment of a partnership interest entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(4) A partner ceases to be a partner and to have the power to exercise any rights or powers of a partner upon assignment of all of his partnership interest. Unless otherwise provided in a partnership agreement, the pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the partnership interest of a partner shall not cause the partner to cease to be a partner or to have the power to exercise any rights or powers of a partner.

(b) Unless otherwise provided in a partnership agreement, a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited partnership. A partnership agreement may provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates. A limited partnership shall not have the power to issue a certificate of partnership interest in bearer form.

(c) Unless otherwise provided in a partnership agreement and except to the extent assumed by agreement, until an assignee of a partnership interest becomes a partner, the assignee shall have no liability as a partner solely as a result of the assignment.

(d) Unless otherwise provided in the partnership agreement, a limited partnership may acquire, by purchase, redemption or otherwise, any partnership interest or other interest of a partner in the limited partnership. Unless otherwise provided in the partnership agreement, any such interest so acquired by the limited partnership shall be deemed cancelled.

§17-703. PARTNER'S PARTNERSHIP INTEREST SUBJECT TO CHARGING ORDER.

(a) On application by a judgment creditor of a partner or of a partner's assignee, a court having jurisdiction may charge the partnership interest of the judgment debtor to satisfy the judgment. To the extent so charged, the judgment creditor has only the right to receive any distribution or distributions to which the judgment debtor would otherwise have been entitled in respect of such partnership interest.

(b) A charging order constitutes a lien on the judgment debtor's partnership interest.

(c) This chapter does not deprive a partner or partner's assignee of a right under exemption laws with respect to the judgment debtor's partnership interest.

(d) The entry of a charging order is the exclusive remedy by which a judgment creditor of a partner or of a partner's assignee may satisfy a judgment out of the judgment debtor's partnership interest.

(e) No creditor of a partner or of a partner's assignee shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited partnership.

(f) The Court of Chancery shall have jurisdiction to hear and determine any matter relating to any such charging order.

§17-704. RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.

(a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that:

(1) The partnership agreement so provides; or

(2) All partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. Notwithstanding the foregoing, unless otherwise provided in the partnership agreement, an assignee who becomes a limited partner is liable for the obligations of his assignor to make contributions as provided in § 17-502 of this title, but shall not be liable for the obligations of his assignor under subchapter VI of this chapter. However, the assignee is not obligated for liabilities, including the obligations of his assignor to make contributions as provided in § 17-502 of this title, unknown to the assignee at the time he became a limited partner and which could not be ascertained from the partnership agreement.

(c) Whether or not an assignee of a partnership interest becomes a limited partner, the assignor is not released from his liability to the limited partnership under subchapters V and VI of this chapter.

§17-705. POWERS OF ESTATE OF DECEASED OR INCOMPETENT PARTNER.

If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's personal representative may exercise all of the partner's rights for the purpose of settling his estate or administering his property, including any power under the partnership agreement of an assignee to become a limited partner. If a partner is a corporation, trust or other entity and is dissolved or terminated, the powers of that partner may be exercised by its personal representative.

SUBCHAPTER VIII—DISSOLUTION

§17-801. NONJUDICIAL DISSOLUTION.

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

(1) At the time specified in a partnership agreement, but if no such time is set forth in the partnership agreement, then the limited partnership shall have a perpetual existence;

(2) Unless otherwise provided in a partnership agreement, upon the affirmative vote or written consent of (a) all general partners and (b) the limited partners of a limited partnership or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than two-thirds of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate;

(3) An event of withdrawal of a general partner unless at the time there is at least 1 other general partner and the partnership agreement permits the business of the limited partnership to be carried on by the remaining general partner and that partner does so, but the limited partnership is not dissolved and is not required to be wound up by reason of any event of withdrawal if, (i) within 90 days or such other period as is provided for in a partnership agreement after the withdrawal either (A) if provided for in the partnership agreement, the then current percentage or other interest in the profits of the limited partnership specified in the partnership agreement owned by the remaining partners agree in writing or vote to continue the business of the limited partnership and to appoint, effective as of the date of withdrawal, one or more additional general partners if necessary or desired, or (B) if no such right to agree or vote to continue the business of the limited partnership and to appoint one or more additional general partners is provided for in the partnership agreement, then more than 50% of the then current percentage or other interest in the profits of the limited partnership owned by the remaining partners or, if there is more than one class or group of remaining partners, then more than 50% of the then current percentage or other interest in the profits of the limited partnership owned by each class or classes or group or groups of remaining partners, agree in writing or vote to continue the business of the limited partnership and to appoint, effective as of the date of withdrawal, one or more additional general partners if necessary or desired, or (ii) the business of the limited partnership is continued pursuant to a right to continue stated in the partnership agreement and; the appointment, effective as of the date of withdrawal, of 1 or more additional general partners if necessary or desired;

(4) At the time there are no limited partners; provided that the limited partnership is not dissolved and is not required to be wound up if, (i) unless otherwise provided in a partnership agreement, within 90 days or such other period as is provided for in the partnership agreement after the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, the personal representative of the last remaining limited partner and all of the general partners agree, in writing or by vote, to continue the business of the limited partnership and to the admission of the personal representative of

such limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner; provided that a partnership agreement may provide that the general partners or the personal representative of the last remaining limited partner shall be obligated to agree in writing to continue the business of the limited partnership and to the admission of the personal representative of such limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last limited partner to cease to be a limited partner or (ii) a limited partner is admitted to the limited partnership in the manner provided for in the partnership agreement, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, within 90 days or such other period as is provided for in the partnership agreement after the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner, pursuant to a provision of the partnership agreement that specifically provides for the admission of a limited partner to the limited partnership after there is no longer a remaining limited partner of the limited partnership; or

(5) Upon the happening of events specified in a partnership agreement; or

(6) Entry of a decree of judicial dissolution under § 17-802 of this title.

§17-802. JUDICIAL DISSOLUTION.

On application by or for a partner the Court of Chancery may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement.

§17-803. WINDING UP.

(a) Unless otherwise provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, or a person approved by the limited partners or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than 50 percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate, may wind up the limited partnership's affairs; but the Court of Chancery, upon cause shown, may wind up the limited partnership's affairs upon application of any partner, his personal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

(b) Upon dissolution of a limited partnership and until the filing of a certificate of cancellation as provided in § 17-203 of this title, the persons winding up the limited partnership's affairs may, in the name of, and for and on

behalf of, the limited partnership, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the limited partnership's business, dispose of and convey the limited partnership's property, discharge or make reasonable provision for the limited partnership's liabilities, and distribute to the partners any remaining assets of the limited partnership, all without affecting the liability of limited partners and without imposing the liability of a general partner on a liquidating trustee.

§17-804. DISTRIBUTION OF ASSETS.

(a) Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to partners and former partners under § 17-601 or § 17-604 of this title;

(2) Unless otherwise provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under § 17-601 or § 17-604 of this title; and

(3) Unless otherwise provided in the partnership agreement, to partners first for the return of their contributions and second respecting their partnership interests, in the proportions in which the partners share in distributions.

(b) A limited partnership which has dissolved (i) shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional or unmatured contractual claims, known to the limited partnership, (ii) shall make such provision as will be reasonably likely to be sufficient to provide compensation for any claim against the limited partnership which is the subject of a pending action, suit or proceeding to which the limited partnership is a party and (iii) shall make such provision as will be reasonably likely to be sufficient to provide compensation for claims that have not been made known to the limited partnership or that have not arisen but that, based on facts known to the limited partnership, are likely to arise or to become known to the limited partnership within 10 years after the date of dissolution. If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in the partnership agreement, any remaining assets shall be distributed as provided in this chapter. Any liquidating trustee winding up a limited partnership's affairs who has complied with this section

shall not be personally liable to the claimants of the dissolved limited partnership by reason of such person's actions in winding up the limited partnership.

(c) A limited partner who receives a distribution in violation of subsection (a) of this section, and who knew at the time of the distribution that the distribution violated subsection (a) of this section, shall be liable to the limited partnership for the amount of the distribution. For purposes of the immediately preceding sentence, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefits program. A limited partner who receives a distribution in violation of subsection (a) of this section, and who did not know at the time of the distribution that the distribution violated subsection (a) of this section, shall not be liable for the amount of the distribution. Subject to subsection (d) of this section, this subsection shall not affect any obligation or liability of a limited partner under an agreement or other applicable law for the amount of a distribution.

(d) Unless otherwise agreed, a limited partner who receives a distribution from a limited partnership to which this section applies shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of 3 years from the date of the distribution.

(e) Section 17-607 of this title shall not apply to a distribution to which this section applies.

§17-805. TRUSTEES OR RECEIVERS FOR LIMITED PARTNERSHIPS; APPOINTMENT; POWERS; DUTIES.

When the certificate of limited partnership of any limited partnership formed under this chapter shall be canceled by the filing of a certificate of cancellation pursuant to § 17-203 of this chapter, the Court of Chancery, on application of any creditor or partner of the limited partnership, or any other person who shows good cause therefore, at any time, may either appoint one or more of the general partners of the limited partnership to be trustees, or appoint one or more persons to be receivers, of and for the limited partnership, to take charge of the limited partnership's property, and to collect the debts and property due and belonging to the limited partnership, with the power to prosecute and defend, in the name of the limited partnership, or otherwise, all such suits as may be necessary or proper for the purposes aforesaid, and to appoint an agent or agents under them, and to do all other acts which might be done by the limited partnership, if in being, that may be necessary for the final settlement of the unfinished business of the limited partnership. The powers of the trustees or receivers may be continued as long as the Court of Chancery shall think necessary for the purposes aforesaid.

§17-806. REVOCATION OF DISSOLUTION.

Notwithstanding the occurrence of an event set forth in Section 17-801(1), (2), (3), (4) or (5) of this chapter, the limited partnership shall not be dissolved and its affairs shall not be wound up if, prior to the filing of a certificate of cancellation in the office of the Secretary of State, the business of the limited partnership is continued, effective as of the occurrence of such event, pursuant to the affirmative vote or written consent of (i) all remaining general partners and all remaining limited partners of the limited partnership, (ii) all remaining general partners and the personal representative of the last remaining limited partner of the limited partnership if there is no remaining limited partner, (iii) all remaining limited partners if there is no remaining general partner or (iv) the personal representative of the last remaining limited partner if there is no remaining limited partner and no remaining general partner (and, in each instance, any other person whose approval is required under the partnership agreement to revoke a dissolution pursuant to this section), provided, however, if the dissolution was caused by a vote or written consent, the dissolution shall not be revoked unless each general partner and limited partner and other person (or their respective personal representatives) who voted in favor of, or consented to, the dissolution has voted or consented in writing to continue the business of the limited partnership. If there is no remaining general partner of the limited partnership and all remaining limited partners or, if there is no remaining limited partner, the personal representative of the last remaining limited partner, vote in favor of or consent to the continuation of the business of the limited partnership, such limited partners or personal representative, as applicable, shall be required to agree in writing to appoint 1 or more general partners effective as of the date of withdrawal of the last general partner, and if there is no remaining limited partner of the limited partnership and the personal representative of the last remaining limited partner votes in favor of or consents to the continuation of the business of the limited partnership, such personal representative shall be required to agree in writing to the admission of the personal representative of such limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner.

SUBCHAPTER IX—FOREIGN LIMITED PARTNERSHIPS

§17-901. LAW GOVERNING.

(a) Subject to the Constitution of the State of Delaware:

(1) The laws of the State, territory, possession, or other jurisdiction or country under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

(2) A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of the State of Delaware.

(b) A foreign limited partnership shall be subject to § 17-106 of this title.

§17-902. REGISTRATION REQUIRED; APPLICATION.

Before doing business in the State of Delaware, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State:

(1) A copy executed by a general partner of an application for registration as a foreign limited partnership, setting forth:

a. The name of the foreign limited partnership and, if different, the name under which it proposes to register and do business in the State of Delaware;

b. The state, territory, possession or other jurisdiction or country where organized, the date of its organization and a statement from a general partner that, as of the date of filing, the foreign limited partnership validly exists as a limited partnership under the laws of the jurisdiction of its organization;

c. The nature of the business or purposes to be conducted or promoted in the State of Delaware;

d. The address of the registered office and the name and address of the registered agent for service of process required to be maintained by § 17-904(b) of this title;

e. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process under the circumstances set forth in § 17-910(b) of this title;

f. The name and business, residence or mailing addresses of each of the general partners; and

g. The date on which the foreign limited partnership first did, or intends to do, business in the State of Delaware.

(2) A fee as set forth in § 17-1107(a)(6) of this title shall be paid.

§17-903. ISSUANCE OF REGISTRATION.

(a) If the Secretary of State finds that an application for registration conforms to law and all requisite fees have been paid, he shall:

(1) Certify that the application has been filed in his office by endorsing upon the original application the word "Filed", and the date and hour of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud;

(2) File and index the endorsed application.

(b) The Secretary of State shall prepare and return to the person who filed the application or his representative a copy of the original signed application,

similarly endorsed, and shall certify such copy as a true copy of the original signed application.

(c) The filing of the application with the Secretary of State shall make it unnecessary to file any other documents under Chapter 31 of this title.

§17-904. NAME; REGISTERED OFFICE; REGISTERED AGENT.

(a) A foreign limited partnership may register with the Secretary of State under any name (whether or not it is the name under which it is registered in the jurisdiction of its organization) that includes the words "Limited Partnership" or the abbreviation "L.P." or the designation "LP" and that could be registered by a domestic limited partnership; provided, however, that a foreign limited partnership may register under any name which is not such as to distinguish it upon the records in the Office of the Secretary of State from the name on such records of any domestic or foreign corporation, partnership, statutory trust, limited liability company or limited partnership reserved, registered, formed or organized under the laws of the State of Delaware with the written consent of the other corporation, partnership, statutory trust, limited liability company or limited partnership, which written consent shall be filed with the Secretary of State.

(b) Each foreign limited partnership shall have and maintain in the State of Delaware:

(1) A registered office which may but need not be a place of its business in the State of Delaware; and

(2) A registered agent for service of process on the limited partnership, having a business office identical with such registered office, which agent may be any of:

a. An individual resident in the State of Delaware,

b. A domestic limited liability company, a domestic corporation, a domestic partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), or a domestic statutory trust, or

c. A foreign corporation, a foreign partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)) (other than the foreign limited partnership itself), a foreign limited liability company or a foreign statutory trust.

(c) A registered agent may change the address of the registered office of the foreign limited partnership(s) for which the agent is registered agent to another address in the State of Delaware by paying a fee as set forth in § 17-1107(a)(7) of this title and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the address at which such registered agent has maintained the registered office for each of the foreign limited partnerships for which it is a registered agent, and further certifying to the new address to which

each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the foreign limited partnerships for which it is a registered agent. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law, the registered office in the State of Delaware of each of the foreign limited partnerships for which the agent is a registered agent shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a foreign limited partnership, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered agent before it was changed, and the address at which such registered agent has maintained the registered office for each of the foreign limited partnerships for which it is a registered agent, and shall pay a fee as set forth in § 17-1107(a)(7) of this title. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the certificate under the Secretary of State's own hand and seal of office. A change of name of any person acting as registered agent of a foreign limited partnership as a result of a merger or consolidation of the registered agent, with or into another person which succeeds to its assets and liabilities by operation of law, shall be deemed a change of name for purposes of this section. Filing a certificate under this section shall be deemed to be an amendment of the application of each foreign limited partnership affected thereby and each such foreign limited partnership shall not be required to take any further action with respect thereto, to amend its application under § 17-905 of this title. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each foreign limited partnership affected thereby.

(d) The registered agent of 1 or more foreign limited partnerships may resign and appoint a successor registered agent by paying a fee as set forth in § 17-1107(a)(7) of this title and filing a certificate with the Secretary of State, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement of each affected foreign limited partnership ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of such foreign limited partnerships as have ratified and approved such substitution and the successor registered agent's address, as stated in such certificate, shall become the address of each such foreign limited partnership's registered office in the State of Delaware. The Secretary of State shall then issue a certificate that the successor registered agent has become the registered agent of the foreign limited partnerships so ratifying and approving such change and setting out the names of such foreign limited partnerships. Filing of such

certificate of resignation shall be deemed to be an amendment of the application of each foreign limited partnership affected thereby and each such foreign limited partnership shall not be required to take any further action with respect thereto to amend its application under § 17-905 of this title.

(e) The registered agent of one or more foreign limited partnerships may resign without appointing a successor registered agent by paying a fee as set forth in § 17-1107(a)(7) of this title and filing a certificate of resignation with the Secretary of State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall contain a statement that written notice of resignation was given to each affected foreign limited partnership at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the foreign limited partnership at its address last known to the registered agent and shall set forth the date of such notice. After receipt of the notice of the resignation of its registered agent, the foreign limited partnership for which such registered agent was acting shall obtain and designate a new registered agent to take the place of the registered agent so resigning. If such foreign limited partnership fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 30 days after the filing by the registered agent of the certificate of resignation, such foreign limited partnership shall not be permitted to do business in the State of Delaware and its registration shall be cancelled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against each foreign limited partnership for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 17-911 of this title.

§17-905. AMENDMENTS TO APPLICATION.

If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application false in any respect, the foreign limited partnership shall promptly file in the Office of the Secretary of State a certificate, executed by a general partner, correcting such statement, together with a fee as set forth in § 17-1107(a)(6) of this title.

§17-906. CANCELLATION OF REGISTRATION.

A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation executed by a general partner, together with a fee as set forth in § 17-1107(a)(6) of this title. The registration of a foreign limited partnership shall be cancelled as provided in § 17-104(i)(4), § 17-904(e) and § 17-1109(g) of this Title. A cancellation does not terminate the

authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the doing of business in the State of Delaware.

§17-907. DOING BUSINESS WITHOUT REGISTRATION.

(a) A foreign limited partnership doing business in the State of Delaware may not maintain any action, suit or proceeding in the State of Delaware until it has registered in the State of Delaware, and has paid to the State of Delaware all fees and penalties for the years or parts thereof, during which it did business in the State of Delaware without having registered.

(b) The failure of a foreign limited partnership to register in the State of Delaware does not impair:

(1) The validity of any contract or act of the foreign limited partnership;

(2) The right of any other party to the contract to maintain any action, suit or proceeding on the contract; or

(3) Prevent the foreign limited partnership from defending any action, suit or proceeding in any court of the State of Delaware.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the foreign limited partnership's having done business in the State of Delaware without registration.

(d) Any foreign limited partnership doing business in the State of Delaware without first having registered shall be fined and shall pay to the Secretary of State $200 for each year or part thereof during which the foreign limited partnership failed to register in the State of Delaware.

§17-908. FOREIGN LIMITED PARTNERSHIPS DOING BUSINESS WITHOUT HAVING QUALIFIED; INJUNCTIONS.

The Court of Chancery shall have jurisdiction to enjoin any foreign limited partnership, or any agent thereof, from doing any business in the State of Delaware if such foreign limited partnership has failed to register under this subchapter or if such foreign limited partnership has secured a certificate of the Secretary of State under § 17-903 of this title on the basis of false or misleading representations. The Attorney General shall, upon his own motion or upon the relation of proper parties, proceed for this purpose by complaint in any county in which such foreign limited partnership is doing or has done business.

§17-909. EXECUTION; LIABILITY.

Sections 17-204(c) and 17-207 of this title shall be applicable to foreign limited partnerships as if they were domestic limited partnerships.

§17-910. SERVICE OF PROCESS ON REGISTERED FOREIGN LIMITED PARTNERSHIPS.

(a) Service of legal process upon any foreign limited partnership shall be made by delivering a copy personally to any managing or general agent or general partner of the foreign limited partnership in the State of Delaware or the registered agent of the foreign limited partnership in the State of Delaware, or by leaving it at the dwelling house or usual place of abode in the State of Delaware of any such managing or general agent, general partner or registered agent (if the registered agent be an individual), or at the registered office or other place of business of the foreign limited partnership in the State of Delaware. If the registered agent be a corporation, service of process upon it as such may be made by serving, in the State of Delaware, a copy thereof on the president, vice-president, secretary, assistant secretary or any director of the corporate registered agent. Service by copy left at the dwelling house or usual place of abode of any officer, managing or general agent, general partner or registered agent, or at the registered office or other place of business of the foreign limited partnership in the State of Delaware, to be effective must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in his return thereto. Process returnable forthwith must be delivered personally to the officer, managing or general agent, general partner or registered agent.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the foreign limited partnership upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) hereof. In the event service is effected through the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify the foreign limited partnership by letter, certified mail, return receipt requested, directed to the foreign limited partnership at the address of a general partner as it appears on the records relating to such foreign limited partnership on file with the Secretary of State or, if no such address appears, at its last registered office. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection, and to pay to the Secretary of State the sum of $50 for the use of the State of Delaware, which sum shall be taxed as a part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in

which process has been served upon him, the fact that service has been effected pursuant to this subsection, the return date thereof and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.

§17-911. SERVICE OF PROCESS ON UNREGISTERED FOREIGN LIMITED PARTNERSHIPS.

(a) Any foreign limited partnership which shall do business in the State of Delaware without having registered under § 17-902 of this title shall be deemed to have thereby appointed and constituted the Secretary of State of the State of Delaware its agent for the acceptance of legal process in any civil action, suit or proceeding against it in any state or federal court in the State of Delaware arising or growing out of any business done by it within the State of Delaware. The doing of business in the State of Delaware by such foreign limited partnership shall be a signification of the agreement of such foreign limited partnership that any such process when so served shall be of the same legal force and validity as if served upon an authorized general partner or agent personally within the State of Delaware.

(b) Whenever the words "doing business", "the doing of business" or "business done in this State", by any such foreign limited partnership are used in this section, they shall mean the course or practice of carrying on any business activities in the State of Delaware, including, without limiting the generality of the foregoing, the solicitation of business or orders in the State of Delaware.

(c) In the event of service upon the Secretary of State in accordance with subsection (a) of this section, the Secretary of State shall forthwith notify the foreign limited partnership thereof by letter, certified mail, return receipt requested, directed to the foreign limited partnership at the address furnished to the Secretary of State by the plaintiff in such action, suit or proceeding. Such letter shall enclose a copy of the process and any other papers served upon the Secretary of State. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being made pursuant to this subsection, and to pay to the Secretary of State the sum of $50 for the use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such process setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon him, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.

§17-912. ACTIVITIES NOT CONSTITUTING DOING BUSINESS.

(a) Activities of a foreign limited partnership in the State of Delaware that do not constitute doing business for the purpose of this subchapter include:

(1) maintaining, defending or settling an action or proceeding;

(2) holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(3) maintaining bank accounts;

(4) maintaining offices or agencies for the transfer, exchange or registration of the limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside the State of Delaware before they become contracts;

(7) selling, by contract consummated outside the State of Delaware, and agreeing, by the contract, to deliver into the State of Delaware, machinery, plants or equipment, the construction, erection or installation of which within the State of Delaware requires the supervision of technical engineers or skilled employees performing services not generally available, and as part of the contract of sale agreeing to furnish such services, and such services only, to the vendee at the time of construction, erection or installation;

(8) creating, as borrower or lender, or acquiring indebtedness with or without a mortgage or other security interest in property;

(9) collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting and maintaining property so acquired;

(10) conducting an isolated transaction that is not one in the course of similar transactions;

(11) doing business in interstate commerce; and

(12) doing business in the State of Delaware as an insurance company.

(b) A person shall not be deemed to be doing business in the State of Delaware solely by reason of being a partner of a domestic limited partnership or a foreign limited partnership.

(c) This section does not apply in determining whether a foreign limited partnership is subject to service of process, taxation or regulation under any other law of the State of Delaware.

SUBCHAPTER X—DERIVATIVE ACTIONS

§17-1001. RIGHT TO BRING ACTION.

A limited partner or an assignee of a partnership interest may bring an action in the Court of Chancery in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

§17-1002. PROPER PLAINTIFF.

In a derivative action, the plaintiff must be a partner or an assignee of a partnership interest at the time of bringing the action and:

(1) At the time of the transaction of which he complains; or

(2) His status as a partner or an assignee of a partnership interest had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner or an assignee of a partnership interest at the time of the transaction.

§17-1003. COMPLAINT.

In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

§17-1004. EXPENSES.

If a derivative action is successful, in whole or in part, as a result of a judgment, compromise or settlement of any such action, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from any recovery in any such action or from a limited partnership.

SUBCHAPTER XI—MISCELLANEOUS

§17-1101. CONSTRUCTION AND APPLICATION OF CHAPTER AND PARTNERSHIP AGREEMENT.

(a) This chapter shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

(b) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(c) It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of partnership agreements.

(d) To the extent that, at law or in equity, a partner or other person has duties (including fiduciary duties) to a limited partnership or to another partner or to an other person that is a party to or is otherwise bound by a partnership agreement, the partner's or other person's duties may be expanded or restricted or eliminated by provisions in the partnership agreement; provided that the partnership agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

(e) Unless otherwise provided in a partnership agreement, a partner or other person shall not be liable to a limited partnership or to another partner or to an other person that is a party to or is otherwise bound by a partnership agreement for breach of fiduciary duty for the partner's or other person's good faith reliance on the provisions of the partnership agreement.

(f) A partnership agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties (including fiduciary duties) of a partner or other person to a limited partnership or to another partner or to an other person that is a party to or is otherwise bound by a partnership agreement; provided that a partnership agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

(g) Sections 9-406 and 9-408 of this Title do not apply to any interest in a limited partnership, including all rights, powers and interests arising under a partnership agreement or this chapter. This provision prevails over Sections 9-406 and 9-408 of this Title.

§17-1102. SHORT TITLE.

This chapter may be cited as the "Delaware Revised Uniform Limited Partnership Act".

§17-1103. SEVERABILITY.

If any provision of this chapter or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§17-1104. EFFECTIVE DATE AND EXTENDED EFFECTIVE DATE.

(a) All limited partnerships formed on or after January 1, 1983, the "effective date," shall be governed by this chapter.

(b) Except as provided in subsections (e) and (f) of this section, all limited partnerships formed on or after July 1, 1973, and prior to the effective date, under Chapter 17 of this title as hereby repealed, shall continue to be governed by that chapter until January 1, 1985, the "extended effective date," at which time such limited partnerships shall be governed by this chapter.

(c) Except as provided in subsection (e) of this section, a limited partnership formed prior to July 1, 1973, shall continue to be governed by Chapter 17 of this title in effect prior to the adoption of Chapter 17 of this title as hereby repealed, except that such limited partnership shall not be renewed except under this chapter.

(d) Except as provided in subsection (e) of this section, subchapter IX of this chapter, dealing with foreign limited partnerships, is not effective until the extended effective date.

(e) Any limited partnership formed prior to the effective date, and any foreign limited partnership, may elect to be governed by this chapter before the extended effective date by filing with the Secretary of State a certificate of limited partnership or an application for registration as a foreign limited partnership which complies with this chapter or a certificate of amendment which would cause its certificate of limited partnership to comply with this chapter and which specifically states that it is electing to be so bound.

(f) With respect to a limited partnership formed on or after July 1, 1973, and prior to the effective date:

(1) On and after the extended effective date, such limited partnership need not file with the Secretary of State a certificate of amendment which would cause its certificate of limited partnership to comply with this chapter until the occurrence of an event which, under this chapter, requires the filing of a certificate of amendment;

(2) Sections 17-501 and 17-502 of this title shall apply only to contributions and distributions made after the effective date; and

(3) Section 17-704 of this title shall apply only to assignments made after the effective date.

§17-1105. CASES NOT PROVIDED FOR IN THIS CHAPTER.

In any case not provided for in this chapter the Delaware Uniform Partnership Law (6 Del. C. § 1501, et seq.) and the rules of law and equity, including the Law Merchant, shall govern.

§17-1106. PRIOR LAW.

Except as set forth in § 17-1104 of this title, Chapter 17 of this title is hereby repealed.

§17-1107. FEES.

(a) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Delaware:

(1) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to § 17-103(b) of this title, a fee in the amount of $75.

(2) Upon the receipt for filing of a certificate under § 17-104(b) of this title, a fee in the amount of $50, upon the receipt for filing of a certificate under § 17-104(c) of this title, a fee in the amount of $50 and a further fee of $2 for each limited partnership affected by such certificate, and upon the receipt for filing of a certificate under § 17-104(d) of this title, a fee in the amount of $2.50.

(3) Upon the receipt for filing of a certificate of limited partnership domestication under § 17-215 of this title, a certificate of transfer or a certificate of transfer and domestic continuance under § 17-216 of this title, a certificate of conversion to limited partnership under § 17-217 of this title, a certificate of conversion to a non-Delaware entity under § 17-219 of this title, a certificate of limited partnership under § 17-201 of this title, a certificate of amendment under § 17-202 of this title, a certificate of cancellation under § 17-203 of this title, a certificate of merger or consolidation under § 17-211 of this title, a restated certificate of limited partnership under § 17-210 of this title, a certificate of amendment of a certificate with a future effective date or time under § 17-206(c) of this title, a certificate of termination of a certificate with a future effective date or time under § 17-206(c) of this title, a certificate of correction under § 17-213 of this title, or a certificate of revival under § 17-1111 of this title, a fee in the amount of $200.

(4) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of $30 for each copy certified.

(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of $10 shall be paid for the first page and $2 for each additional page. The Secretary of State may also issue microfiche copies of instruments on file as well as instruments, documents and other papers not on file, and for each such microfiche a fee of $2 shall be paid therefor. Notwithstanding the State of Delaware's Freedom of Information Act or other provision of this Code granting access to public records, the Secretary of State shall issue only photocopies, microfiche or electronic image copies of records in exchange for the fees described above.

(6) Upon the receipt for filing of an application for registration as a foreign limited partnership under § 17-902 of this title, a certificate under §

17-905 of this title or a certificate of cancellation under § 17-906 of this title, a fee in the amount of $200.

(7) Upon the receipt for filing of a certificate under § 17-904(c) of this title, a fee in the amount of $50, upon the receipt for filing of a certificate under § 17-904(d) of this title, a fee in the amount of $50 and a further fee of $2 for each foreign limited partnership affected by such certificate, and upon the receipt for filing of a certificate under § 17-904(e) of this title, a fee in the amount of $10.

(8) For preclearance of any document for filing, a fee in the amount of $250.

(9) For preparing and providing a written report of a record search, a fee in the amount of $30.

(10) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (4) of this subsection, a fee in the amount of $30, except that for issuing any certificate of the Secretary of State that recites all of a limited partnership's filings with the Secretary of State, a fee of $125 shall be paid for each such certificate.

(11) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of $50.

(12) The Secretary of State may in his discretion charge a fee of $60 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

(b) In addition to those fees charged under subsection (a) of this section, there shall be collected by and paid to the Secretary of State the following:

(1) For all services described in subsection (a) of this section that are requested to be completed within one (1) hour on the same day as the day of request, an additional sum of up to $1,000 and for all services described in subsection (a) of this section that are requested to be completed within 2 hours on the same day as the day of the request, an additional sum of up to $500;

(2) For all services described in subsection (a) of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to $200; and

(3) For all services described in subsection (a) of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to $100.

The Secretary of State shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection.

(c) The Secretary of State may in his discretion permit the extension of credit for the fees required by this section upon such terms as he shall deem to be appropriate.

(d) The Secretary of State shall retain from the revenue collected from the fees required by this section a sum sufficient to provide at all times a fund of at

least $500, but not more than $1,500, from which he may refund any payment made pursuant to this section to the extent that it exceeds the fees required by this section. The funds shall be deposited in a financial institution which is a legal depository of State of Delaware moneys to the credit of the Secretary of State and shall be disbursable on order of the Secretary of State.

(e) Except as provided in this section, the fees of the Secretary of State shall be as provided in § 2315 of Title 29.

§17-1108. RESERVED POWER OF STATE OF DELAWARE TO ALTER OR REPEAL CHAPTER.

All provisions of this chapter may be altered from time to time or repealed and all rights of partners are subject to this reservation. Unless expressly stated to the contrary in this chapter, all amendments of this chapter shall apply to limited partnerships and partners whether or not existing as such at the time of the enactment of any such amendment.

§17-1109. ANNUAL TAX OF DOMESTIC LIMITED PARTNERSHIP AND FOREIGN LIMITED PARTNERSHIP.

(a) Every domestic limited partnership and every foreign limited partnership registered to do business in the State of Delaware shall pay an annual tax, for the use of the State of Delaware, in the amount of **[**$200**]** **$250**.

(b) The annual tax shall be due and payable on the first day of June following the close of the calendar year or upon the cancellation of a certificate of limited partnership. The Secretary of State shall receive the annual tax and pay over all taxes collected to the Department of Finance of the State of Delaware. If the annual tax remains unpaid after the due date established by subsection (d) of this section, the tax shall bear interest at the rate of 1 1/2% for each month or portion thereof until fully paid.

(c) The Secretary of State shall, at least 60 days prior to the first day of June of each year, cause to be mailed to each domestic limited partnership and foreign limited partnership required to comply with the provisions of this section in care of its registered agent in the State of Delaware an annual statement for the tax to be paid hereunder.

(d) In the event of neglect, refusal or failure on the part of any domestic limited partnership or foreign limited partnership to pay the annual tax to be paid hereunder on or before the first day of June in any year, such domestic limited partnership or foreign limited partnership shall pay the sum of $100 to be recovered by adding that amount to the annual tax, and such additional sum shall become a part of the tax and shall be collected in the same manner and subject to the same penalties.

(e) In case any domestic limited partnership or foreign limited partnership shall fail to pay the annual tax due within the time required by this section, and in case the agent in charge of the registered office of any domestic limited partnership or foreign limited partnership upon whom process against such domestic limited partnership or foreign limited partnership may be served shall die, resign, refuse to act as such, remove from the State of Delaware or cannot with due diligence be found, it shall be lawful while default continues to serve process against such domestic limited partnership or foreign limited partnership upon the Secretary of State. Such service upon the Secretary of State shall be made in the manner and shall have the effect stated in § 17-105 of this title in the case of a domestic limited partnership and § 17-910 of this title in the case of a foreign limited partnership and shall be governed in all respects by said sections.

(f) The annual tax shall be a debt due from a domestic limited partnership or foreign limited partnership to the State of Delaware, for which an action at law may be maintained after the same shall have been in arrears for a period of one month. The tax shall also be a preferred debt in the case of insolvency.

(g) A domestic limited partnership or foreign limited partnership that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a domestic limited partnership or registered as a foreign limited partnership in the State of Delaware.

(h) A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered by reason of the failure to pay an annual tax shall be restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership that is registered in the State of Delaware upon the payment of the annual tax and all penalties and interest thereon for each year for which such domestic limited partnership or foreign limited partnership neglected, refused or failed to pay an annual tax.

(i) The Attorney General, either on his own motion or upon request of the Secretary of State, whenever any annual tax due under this chapter from any domestic limited partnership or foreign limited partnership shall have remained in arrears for a period of 3 months after the tax shall have become payable, may apply to the Court of Chancery, by petition in the name of the State of Delaware, on 5 days' notice to such domestic limited partnership or foreign limited partnership, which notice may be served in such manner as the Court may direct, for an injunction to restrain such domestic limited partnership or foreign limited partnership from the transaction of any business within the State of Delaware or elsewhere, until the payment of the annual tax, and all penalties and interest due thereon and the cost of the application, which shall be fixed by the Court. The Court of Chancery may grant the injunction, if a proper case appears, and upon granting and service of the injunction, such domestic limited partnership or foreign limited partnership thereafter shall not transact any business until the injunction shall be dissolved.

(j) A domestic limited partnership that has ceased to be in good standing by reason of its neglect, refusal or failure to pay an annual tax shall remain a domestic limited partnership formed under this chapter. The Secretary of State shall not accept for filing any certificate (except a certificate of resignation of a registered agent when a successor registered agent is not being appointed) required or permitted by this chapter to be filed in respect of any domestic limited partnership or foreign limited partnership which has neglected, refused or failed to pay an annual tax, and shall not issue any certificate of good standing with respect to such domestic limited partnership or foreign limited partnership, unless and until such domestic limited partnership or foreign limited partnership shall have been restored to and have the status of a domestic limited partnership in good standing or a foreign limited partnership duly registered in the State of Delaware.

(k) A domestic limited partnership that has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in the State of Delaware by reason of its neglect, refusal or failure to pay an annual tax may not maintain any action, suit or proceeding in any court of the State of Delaware until such domestic limited partnership or foreign limited partnership has been restored to and has the status of a domestic limited partnership or foreign limited partnership in good standing or duly registered in the State of Delaware. An action, suit or proceeding may not be maintained in any court of the State of Delaware by any successor or assignee of such domestic limited partnership or foreign limited partnership on any right, claim or demand arising out of the transaction of business by such domestic limited partnership after it has ceased to be in good standing or a foreign limited partnership that has ceased to be registered in the State of Delaware until such domestic limited partnership or foreign limited partnership, or any person that has acquired all or substantially all of its assets, has paid any annual tax then due and payable, together with penalties and interest thereon.

(l) The neglect, refusal or failure of a domestic limited partnership or foreign limited partnership to pay an annual tax shall not impair the validity of any contract, deed, mortgage, security interest, lien or act of such domestic limited partnership or foreign limited partnership or prevent such domestic limited partnership or foreign limited partnership from defending any action, suit, or proceeding in any court of the State of Delaware.

(m) A limited partner of a domestic limited partnership or foreign limited partnership is not liable as a general partner of such domestic limited partnership or foreign limited partnership solely by reason of the neglect, refusal or failure of such domestic limited partnership or foreign limited partnership to pay an annual tax or by reason of such domestic limited partnership or foreign limited partnership ceasing to be in good standing or duly registered.

§17-1110. CANCELLATION OF CERTIFICATE OF LIMITED PARTNERSHIP FOR FAILURE TO PAY ANNUAL TAX.

(a) The certificate of limited partnership of a domestic limited partnership shall be cancelled if the limited partnership shall fail to pay the annual tax due under § 17-1109 of this title for a period of three years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

(b) A list of those domestic limited partnerships whose certificates of limited partnership were canceled on June 1 of such calendar year pursuant to Section 17-1110(a) of this title shall be filed in the office of the Secretary of State. On or before October 31 of each calendar year, the Secretary of State shall publish such list on the Internet or on a similar medium for a period of 1 week and shall advertise the website or other address where such list can be accessed in at least 1 newspaper of general circulation in the State of Delaware.

§17-1111. REVIVAL OF DOMESTIC LIMITED PARTNERSHIP.

(a) A domestic limited partnership whose certificate of limited partnership has been cancelled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title may be revived by filing in the office of the Secretary of State a certificate of revival accompanied by the payment of the fee required by § 17-1107(a)(3) of this title and payment of the annual tax due under § 17-1109 of this title and all penalties and interest thereon for each year for which such domestic limited partnership neglected, refused or failed to pay such annual tax, including each year between the cancellation of its certificate of limited partnership and its revival. The certificate of revival shall set forth:

(1) The name of the limited partnership at the time its certificate of limited partnership was cancelled and, if such name is not available at the time of revival, the name under which the limited partnership is to be revived;

(2) The date of filing of the original certificate of limited partnership of the limited partnership;

(3) The address of the limited partnership's registered office in the State of Delaware and the name and address of the limited partnership's registered agent in the State of Delaware;

(4) A statement that the certificate of revival is filed by one or more general partners of the limited partnership authorized to execute and file the certificate of revival to revive the limited partnership; and

(5) Any other matters the general partner or general partners executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the certificate of limited partnership of the limited partnership, and the limited partnership shall not be required to take any further action to amend its certificate

of limited partnership under § 17-202 of this title with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a limited partnership shall be revived with the same force and effect as if its certificate of limited partnership had not been cancelled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title. Such revival shall validate all contracts, acts, matters and things made, done and performed by the limited partnership, its partners, employees and agents during the time when its certificate of limited partnership was cancelled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title, with the same force and effect and to all intents and purposes as if the certificate of limited partnership had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited partnership at the time its certificate of limited partnership was cancelled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title, or which were acquired by the limited partnership following the cancellation of its certificate of limited partnership pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title, and which were not disposed of prior to the time of its revival, shall be vested in the limited partnership after its revival as fully as they were held by the limited partnership at, and after, as the case may be, the time its certificate of limited partnership was cancelled pursuant to § 17-104(d) or § 17-104(i)(4) or § 17-1110(a) of this title. After its revival, the limited partnership and its partners shall have the same liability for all contracts, acts, matters and things made, done or performed in the limited partnership's name and on its behalf by its partners, employees and agents as the limited partnership and its partners would have had if the limited partnership's certificate of limited partnership had at all times remained in full force and effect.