

**Dry Creek Rancheria
Band of Pomo Indians**

Business Code

TITLE 6. BUSINESS PARTNERSHIP CODE

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CHAPTER 1. GENERAL PROVISIONS

SECTION 1. Purpose

The purpose of this Title is to provide general regulations that apply to Business Partnerships created for business purposes within the Tribe's jurisdiction. Unless otherwise provided in an executed Partnership Agreement between the business partnership and has been properly filed with the Tribal Department of Commerce; this Title shall apply to all Business Partnerships operating within the Tribe's jurisdiction.

SECTION 2. Contents of Partnership Agreements

Partnership Agreements must include the following provisions:

- (A) The name and place of the partnership business;
- (B) Identification of all partners;
- (C) The duration of the partnership;
- (D) Capital contributions made individually by each partner to the partnership;
- (E) Terms with respect to partnership property interests;
- (F) The rights, duties and liabilities of partners;
- (G) Indemnification agreements among the partners;

(H) Management structure of the partnership, partnership decision making and meetings, and management responsibilities of each partner;

(I) Financial agreements, including control of bank accounts, profits and losses, accounting matters, record and bookkeeping, audits, income accounts and distributions, payments of taxes, and wages;

(J) Admission of new partners, transfers of partnership status, withdrawal of partners, and expulsion;

(K) Dissolution and liquidation agreements;

(L) Dispute resolution; and

(M) Provisions for amending the partnership agreement.

SECTION 3. Standard Partnership Provisions

Unless otherwise agreed in a written partnership agreement, the following provisions apply to business partnerships operating pursuant to the Tribal Business Codes:

(A) Capital Contributions, Partnership Property.

(1) Capital Contributions. Each partner is responsible for providing equal amount of initial capital contributions to the partnership. Subsequent capital contributions, as such are needed by the partnership, shall be made by each partner in proportion to his respective distributive share. In the event any partner fails to make such subsequent capital contribution, the partners who have contributed their shares may consider the sums so advanced as loans to the partnership.

(B) Partnership Property. All property originally paid or brought into, or transferred to, the partnership as contributions to capital by the partners, or subsequently acquired by purchase or otherwise, on account of the partnership, shall be partnership property.

(C) Property To Be In Partnership Name. The title to all partnership property shall be held in the name of the partnership.

(D) Rights, Duties, and Liabilities of Partners; Other Business Activities Prohibited. No partner, during the continuance of the partnership, shall pursue, or become directly or indirectly interested in, any business or occupation which is in conflict either with the business of the partnership or with the duties and responsibilities of such partner to the partnership.

(1) Time Partners Devote to Business. Each partner shall devote to the business of the partnership his and her time sufficient to insure the success of the business.

(2) Salaries. Each partner, for his time devoted to the business of the partnership, shall receive, in addition to his share in any profits a salary. The salary of each partner will be determined after the first six months of business operation.

(3) Vacations and Leave of Absence. Each partner shall be entitled to 30 days of vacation and 12 days of leave of absence for illness or disability per annum.

(4) Partnership Obligations. The partnership is not bound by any previous obligations of any individual partner that has not been agreed to by all partners.

(5) Payment of Separate Debts of Partners, Indemnification. Each partner is responsible for payment of his or her separate debts punctually and shall indemnify the other partners and the capital and property of the partnership against the same and all expenses on account thereof.

(E) Management of Partnership.

(1) Participation in Management. All partners shall have equal rights in the management and conduct of the partnership. Decisions shall be by majority vote (each partner having one vote).

(2) Matters Requiring Unanimity. During the continuance of the partnership, no partner shall, without the consent of all partners, do any of the following:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;
- (b) Dispose of the good will of the business;
- (c) Submit a partnership claim or liability to arbitration or reference;
- (d) Confess a judgment against the partnership;
- (e) Do any act which would make it impossible to carry on the ordinary business of the partnership;

(f) Make, execute, or deliver in the name of the partnership any bond, trust deed, mortgage, indemnity bond, guarantee, surety bond, or accommodation paper or accommodation endorsement;

(g) Borrow money in the name of the partnership or use as collateral any partnership property;

(h) Assign, pledge, transfer, release, or compromise any debt owing to, or claim of, the partnership except for full payment;

(i) Convey any real property of the partnership;

(j) Pledge or transfer in any manner, except to another partner, his individual interest in the partnership; or

(k) Undertake or complete any act for which unanimity is required under any other provision of this agreement.

(F) Contracts. For purposes of the partnership business, but subject to any limitations and restrictions imposed by this Section, each partner shall have equal power and authority in using the partnership name and in binding the partnership, in making contracts and purchasing goods, and in otherwise trading, buying, sell, or managing on behalf of the partnership.

(G) Employment and Dismissal of Personnel. No partner shall hire any person for employment by the partnership or dismiss, except in case of gross misconduct, any person in the employment of the partnership without the consent of all the partners.

(H) Indemnity By Partnership. The partnership will indemnify each partner in respect for payments made and personal liabilities reasonably incurred by each partner in the ordinary and proper conduct of the partnership business, or for the Rancheria of the business or property of the partnership.

(I) Meetings of Partners. Without call or notice, the partners shall hold regular quarterly meetings at times and places to be selected by the partners. In addition, special meetings may be called by any two partners at any time after the giving of one days' notice to all partners. Notice of special meetings shall be by actual notice in person or by telephone to each partner. Any partner may waive notice of any meeting, and attendance of a partner at a meeting constitutes a waiver of notice of such meeting.

(J) Bank Deposits and Accounts. All partnership funds shall be deposited in the name of the partnership in the partnership's accounts in a designated banking institution. All checks, drafts, or other withdrawal slips drawn on such partnership accounts must be signed by any partner.

(K) Profits and Losses.

(1) Sharing of Profits. The partners shall be entitled to an equal share of the net profits arising from the operation of the partnership business that remain after the payment of the expenses of conducting the business of the partnership.

(2) Losses. All losses that occur in the operation of the partnership business shall be paid out of the capital of the partnership and the profits of the business or, if such sources are deficient in funds to cover such losses, shall be shared equally by the partners.

(L) Accounting Matters.

(1) Books of Account. Books of account shall be kept by the partners, and proper entries made therein of all the sales, purchases, receipts, payments, engagements, transactions, and property of the partnership.

(2) Method of Accounting. All accounts of the partnership shall be kept on the accrual basis. All matters of accounting for which there is no provision in this agreement are to be governed by generally accepted methods of accounting.

(3) Place Where Books and Records To Be Kept. The partnership books of account, and all securities, papers, and writings of the partnership shall be kept at the principal place of business within the exterior boundaries of the Rancheria. Each partner shall have free access at all times to examine and copy the books, papers, and other writings of the partnership.

(4) Auditing of Accounts. The books of account shall be audited annually at the expense of the partners by a certified public accountant selected by the partners.

(5) Capital Accounts. A capital account shall be maintained on the partnership books on behalf of each partner. Such account shall be credited with the partner's contributions to the capital of the partnership and shall be debited and credited in the manner prescribed in Section (6) below.

(6) Income Accounts. An income account shall be maintained on the partnership books on behalf of each partner. Such account shall be closed to the capital account of the partner at the close of the fiscal year. As soon as practicable after the close of each fiscal year, and at such other times as the partners may decide, the income account of each partner shall be credited with that partner's distributive share of profits or debited with his share of the losses. Any losses to be debited to a partner's income account that exceed the credit balance of such account shall be debited to that partner's

individual capital account. If, as a result of debiting a partner's individual capital account with the excess losses, his capital account is depleted, future profits of that partner shall be credited to his capital account until such depletion has been eliminated.

(7) Drawing Accounts. A drawing account, to which withdrawals shall be debited, shall be maintained on the partnership books on behalf of each partner. Withdrawals may be made subject to such limitations as the partners may from time to time adopt. Each partner's drawing account shall be closed to his income account at the close of each fiscal year.

(8) Tax Year. The taxable year of the partnership shall commence on January 1st and end on December 31st.

(9) Partnership Account. All partnership funds shall be deposited in an account in the partnership name in a bank selected by a majority of the partners. Checks shall be drawn upon the partnership account only for partnership purposes and shall be signed by any one partner designated by the partners.

(M) Accounting Between Partners. Each partner shall, on every reasonable request, give to the other partners a true accounting of all transactions relating to the business of the partnership, and full information of all letters, accounts, writings, and other things that come into his or her hands or to his or her knowledge concerning the business of the partnership.

(N) Admission of Partners. Additional partners may be admitted to the partnership on such terms as may be agreed on in writing between the partners and such new partners. The terms so agreed on shall constitute an amendment to this partnership agreement.

(O) Restrictions on Transfers. Except as otherwise provided in this Section, no partner may sell, assign, transfer, encumber, or otherwise dispose of any interest in the partnership, partnership property, or assets of the partnership without the prior written consent of all other partners.

(P) Withdrawal or Retirement of Partner.

(1) Notice of withdrawal or Retirement. In the event any partner shall desire to withdraw or retire from the partnership, or becomes disabled so that he is unable to fulfill his obligations to the partnership as specified in this agreement, such partner shall give 60 days notice thereof in writing by registered or certified mail to the other partners at the last known address of each other partner. If any partner is adjudged incompetent or insane, then his guardian shall give notice thereof to each of the other partners in the same manner as provided herein.

(2) Competitive Activities After Retirement or Withdrawal. Any partner who retires or withdraws from the partnership shall not, without the written consent of the remaining active partners, conduct or otherwise engage in the same type of business within the Rancheria for a period of two years after such retirement or withdrawal.

(Q) Expulsion of Partner.

(1) Grounds for Expulsion. Any partner may be expelled from membership in the partnership by a majority vote of the other partners on the following grounds:

- (a) Failure of a partner to make, when due, any contribution required to be made under the terms of this agreement, when such failure has continued for a period of 60 days after written notice thereof.
- (b) Failure to fulfill any other obligation to the partnership as specified in this agreement, when such failure has continued for a period of 60 days after written notice thereof.
- (c) Adjudication of the partner as insane or incompetent.
- (d) Disability of the partner to the extent that he or she is unable for a period of 365 days to fulfill his obligations to the partnership as specified in this agreement.
- (e) The making of an assignment for the benefit of creditors, the filing of a petition under the National Bankruptcy Act or under similar law or statute of the United States, any state or tribe thereof, or the adjudication of the partner as a bankrupt or insolvent in proceedings filed against such partner under any such act or statute.

(2) Manner of Expulsion Notice. On the occurrence of any event listed in Section (Q)(1) above, the defaulting partner may be expelled from membership in the partnership by a majority vote of the other partners on giving the defaulting partner 60 days notice of expulsion. Such notice shall briefly state the grounds for the expulsion.

(R) Dissolution, Winding Up, and Liquidation.

(1) Causes of Dissolution. The partnership shall be dissolved on the happening of any of the following events:

- (a) Termination of the business specified herein;
- (b) Withdrawal, retirement, or expulsion of any partner;
- (c) Death, disability, or bankruptcy of any partner; or
- (d) Unanimous agreement of the parties.

(2) Right to Continue Business After Dissolution. On dissolution of the partnership, the remaining partners shall have the right to elect to continue the business of the partnership under the same name, by themselves, or with any additional persons they may choose. If the partners remaining desire to continue the business, but not together, the partnership shall be liquidated pursuant to Section (5) below.

(3) Payment if Partnership Continues After Dissolution. If, on dissolution, the remaining partners elect to continue the partnership business under Section (2), they shall pay to the retiring, withdrawing, or expelled partner, or to the estate of the deceased partner, the value of such partner's interest, as determined by Section (4) below, as of the date of dissolution. Such payment shall be made within 6 months of dissolution.

(4) Value of Partners Interest. The value of a partner's interest in the partnership shall be computed by:

- (1) Adding the totals of (a) his or her capital account, (b) his or her income account, and (c) any other amounts owed to him or her by the partnership; and
- (2) Subtracting from the sum of the above totals the sum of the totals of (a) his or her drawing account and (b) any amount owed by him or her to the partnership.

(5) Winding Up and Liquidation. On dissolution of the partnership, if the partnership business is not continued pursuant to Section (2) above, it shall be wound up and liquidated as quickly as circumstances will allow. The assets of the partnership shall be applied to partnership liabilities in the following order:

- (a) Amounts owing to creditors other than partners;
- (b) Amounts owing to partners other than for capital and profits;
- (c) Amounts owing to partners in respect to capital; and
- (d) Amounts owing to partners in respect to profits.

(S) Arbitration. In the event that disputes arising within the partnership, the parties shall submit to arbitration in accordance with the terms established between the Tribal Department of Commerce and the partners, or as directed by the Tribal Court.

(T) Notice to Partners. Except as otherwise specified in this Section, all notices to the partners shall be in writing and shall be deemed effective when given by personal delivery or by certified mail.

SECTION 4. Jurisdiction of Tribal Court

The Tribal Court has authority to adjudicate matters relating to business partnerships arising pursuant to this Title.

SECTION 5. Severability

In the event that any provision of this Title shall be found or declared to be invalid, the remaining provisions of this Title shall be unaffected thereby, and shall remain in full force and effect.